





UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF MANAGEMENT

April 28, 2014

(b)(6); (b)(7)(C)

Dear Mr. and Mrs. (b)(6); (b)(7)(C)

We are writing to inform you that the Family Policy Compliance Office is not initiating an investigation with regard to a complaint you filed with us on December 11, 2013. In that complaint you allege that the Lincoln-Sudbury Regional School District (District) violated the requirements of the Family Educational Rights and Privacy Act (FERPA). Specifically you allege that the District did not provide you with access to your child's education records within 45 days of your request; that the District attempted to make you pay a fee to access your child's education records; that the District did not provide you with an annual notification of your rights under FERPA; and, that the District disclosed information from the education records of other students in the District to you.

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

- (a) Is filed by the "parent" of a 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 can be accessed through the office 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. We close the investigation when the district has completed the required corrective actions.

In this case, we will not open an investigation into your concerns because they do not contain specific allegations of fact which give this office reasonable cause to believe that a FERPA violation has occurred. In order for this office to initiate an investigation, a complaint must contain such specific allegations.

FERPA is a Federal law that affords 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. 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.

With respect to your requests for access, you assert that you made four separate access requests and that the District did not provide you with access to your child's records within 45 days of those requests. According to the information you submitted with your complaint, you made your first request for access to your child's education record on June 12, 2013. In that request you ask that the District provide you with a copy of your child's student record. While the school is not required under FERPA to provide copies of education records to the requesting parents, the school did in fact respond to your request by providing you with copies of all records that it believed were responsive to your request on June 24, 2013. You asserted however, that the access you were provided with was not responsive to your request.

Prior to providing you access on June 24 as discussed above, you had submitted a more specific request for access to emails and other relevant documents and records relating to your child that the District maintained. In response, to this second request, you were provided with access to that specific information by the District on July 10, 2013. On August 17, 2013 you wrote again to the District and expressed your belief that you had still not been provided with full access to your child's education records. You reiterate to the District that you believe you were not provided access to your child's complete school record, but you did not indicate which records you believed had not been provided.

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 her child's education records and the parent believes that she has not been provided certain records which were encompassed by that request, he or she should submit a follow-up request clarifying the additional records she believes exist.

On August 19, 2013, an attorney wrote on your behalf to the District and, again, requested access to and copies of your child's education records, including "all information contained in [your child's] temporary record...[and] all 'information recording and computer tapes, microfilm, microfiche, or any other materials regardless of physical form or characteristics concerning [your child] that is organized on the basis of [her] name or in a way that [she] may be individually identified...As such... [to include]...all email communication and handwritten notes concerning [your child] in any way." Other education records that your attorney requested on your behalf were "all records required to be kept by [the District], pursuant to 105 C.M.R. 201, relating to [your child's] injury...[including] but...not necessarily limited to: reports, tests and tests results, assessments, diagnoses, graduated reentry plans, communication and coordination plans, policies, procedures, protocols, instructions, educational materials on head injury and concussion as well as training procedure plans, policies, training implementation and verification, and other

records.” As you assert you had not yet received access on October 6, 2013, you emailed another request to access to the school, even though the school was still within the 45 days.

On the 45<sup>th</sup> day after your third request, you were informed that in order to receive copies responsive to that follow-up request, you would be required to pay a fee of 20 cents per page that is photocopied, which in your case, the District pointed out would cost \$400 for 2,000 copies that would respond to your request. However, you assert that you reviewed these records a week later on November 1, 2013, and that you did not have to pay.

It appears from the information you provided that the District has responded to your requests for access to your child’s records within 45 days of each request. It appears that the District has satisfied its responsibility under FERPA of permitting you to inspect and review all of your child’s records that it maintains and there is no evidence that indicates the District’s unwillingness to provide you certain records of your child. Additionally, in your case, any refusal that the District might make with regard to making copies of your child’s records does not “effectively prevent” you from reviewing those records.

You also allege that the District attempted to charge fees in order for you to review your child’s education records. While a school may not charge for search and retrieval of information from education records, it is not prohibited by FERPA from charging a fee for copies of education records, unless such fee would effectively prevent a parent from exercising the right to inspect and review the student’s education records. You assert that the District informed you that you would be required to pay \$400.00 before you would be provided with access. However, in a letter dated October 11, 2013, the school clarifies that the fee relates to copies of the education records, not for search and retrieval.

With regard to your allegation that the District does not notify parents of their rights under FERPA, in general, schools are required to notify parents of the right to inspect and review the student’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 school officials are 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, student handbook, or by link on a school’s website. A review of the District’s website indicates that the District meets these requirements.

Finally, you assert that contained within the education records that you were provided access to, was information from the education records of other students in attendance in the District. As addressed above, this office investigates certain complaints alleging violation of FERPA if the complaint is filed by the “parent” of a student at a public elementary 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. As such, you do not have standing to file a complaint with this office on behalf of students that are not your own. However, if a parent of one of those students contacted us relative to the disclosure of their child’s record(s) to you, we will review the information provided and take any necessary action.

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

**Sincerely,**  
(b)(6), (b)(7)(C)

Dale King ✓  
Director  
Family Policy Compliance Office



**How to File a Complaint  
with the U.S. Department of Education under the  
Family Educational Rights and Privacy Act (FERPA)  
20 U.S.C. § 1232g; 34 CFR Part 99**

A parent or eligible student (one who is at least 18 years of age or attending a postsecondary institution) may file a complaint against an educational agency or institution for violating the Family Educational Rights and Privacy Act (FERPA). Please note that, under FERPA, an individual must have "standing", that is, have suffered an alleged violation, in order to file a complaint under FERPA. The FERPA regulations provide that a complaint must be submitted in writing to:

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

In order to file a complaint, please complete the following form. Be sure to type or print legibly and *include sufficient detail and/or evidence to support your allegation*. You should also attach a copy of any pertinent documentation in support of your complaint. Please do not submit video or audio tapes with your complaint as any extra information not pertinent to a FERPA allegation will be returned to you.

Please consider that in order for the Family Policy Compliance Office (FPCO) to investigate a complaint, it must be *timely* and must contain *specific allegations of fact giving reasonable cause to believe that a FERPA violation has occurred*. Therefore, before filing, be sure that you understand clearly what your rights are under FERPA, that you have contacted appropriate school officials about the exercise of those rights, and that you are able to explain in detail and document, if appropriate, any alleged violations. For example, a school has 45 days in which to respond to a request to inspect and review education records and need not, under FERPA, provide you with a *copy* of education records unless, for example, you do not live within commuting distance of the school. Your complaint must also be "timely," meaning that it must be submitted to *the FPCO within 180 days* of the date that you knew or should have known of the violation.

The FPCO will notify you and the educational agency or institution in writing if it initiates an investigation and will ask the institution or agency to submit a written response. The FPCO will also notify you if it does not initiate an investigation if your complaint fails to comply with the requirements for filing a complaint under the FERPA regulations as described above.

7(a). *If you have been denied access to education records:* Provide the specific nature of the records, the date on which you requested access, the name of the official to whom you made the request, and any responses received.

(b). *If your or your child's education records have been improperly disclosed:* Provide the date on which the records were disclosed or the date you learned the records were disclosed, the name of the school official who disclosed the records (if known), the specific nature of the records disclosed, and to whom the records were disclosed.

(c). *If you are seeking to amend education records:* Provide the nature of the record you are seeking to amend, what exact information in the record you wish to amend, the date you submitted a request to amend, the name of the official to whom you made the request, and any responses received.

We are the parents of (b)(6); (b)(7)(C) a student at (b)(6); (b)(7)(C) until Sept. 24, 2013. On that date we dis-enrolled (b)(6) due to lack of proper (b)(6); (b)(7)(C) responses and lack of proper adherence to several state and federal laws and regulations. (b)(6); (b)(7)(C) has not met FERPA requirements as follows:

- **7(a) Denied Access to Education Records (See Exhibit 1 for Details):** On four repeated occasions, (b)(6); (b)(7)(C) has not properly provided us with the opportunity to inspect and review our daughter's education records within 45 days following its receipt of our requests.
- **Attempted to Charge Fees for Review of Educational Records (See Exhibit 2 for Details):** (b)(6); (b)(7)(C) attempted to charge a fee before they would let us review (b)(6) education records.
- **Not Provided Proper Annual Notification of FERPA Rights (See Exhibit 3 for Details):** (b)(6); (b)(7)(C) has provided improper information for their annual notification of our rights under FERPA.
- **7(b) Disclosed Student Education Records (See Exhibit 4):** In the incomplete set of records that (b)(6); (b)(7)(C) eventually provided in response to our 3<sup>rd</sup> and 4<sup>th</sup> Records Requests, (b)(6); (b)(7)(C) improperly disclosed personally identifiable information from many minor student's education records to us in un-redacted and improperly redacted records we received.

8. Describe briefly what steps you have taken, if any, to resolve your complaints with school officials and their response, if any:

**We have repeatedly attempted to resolve our complaints with school officials.**

Details of (b)(6); (b)(7)(C) non-responses and improper and/or incomplete responses are highlighted in Exhibit 1. We will be happy to submit further written or oral arguments or information if required. Following your investigation, we look forward to the written notice of your findings and the basis for your findings. We hope and expect that (b)(6); (b)(7)(C) will be fully required to comply with FERPA and that the Office monitors their compliance closely and for an extensive period of time. In our interactions with (b)(6); (b)(7)(C) we have found that they think they comply with many regulations for which they are completely out of compliance.

9. Complainant's signature:

(b)(6); (b)(7)(C)

Date

(b)(6); (b)(7)(C)







UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF INSPECTOR GENERAL

Investigation Service  
Headquarter Operations Division  
OIG Hotline  
400 Maryland Ave. SW  
Washington, DC 20202

Date: December 27, 2013

To: Kathleen Styles, Chief Privacy Officer, Office of Management

From: Lisa Foster, Special Agent in Charge, Headquarters Operations

(b)(6); (b)(7)(C)

Subject: OIG Hotline Operations Complaint # 14-201854

The attached US Department of Education, Office of Inspector General (OIG), Hotline Division complaint is being forwarded for the following reasons:

- With this referral, this matter is being closed within ED/OIG Hotline files.
- This matter is being referred to you for action. Please review and provide the OIG Hotline a response within 45 days of your action in this matter.
- This matter involves an employee within the Department of Education. Please review and provide the OIG Hotline a response within 45 days of your action in this matter.
- Supplemental information is being provided in the attached documentation.
- This matter is being forwarded for your review and action. If your review uncovers any specific instances of fraud or corruption, involving federal education programs, please access <http://www2.ed.gov/about/offices/list/oig/oigaddress.html> for information on contacting our nearest investigative office.

Should you have any questions, please feel free to contact OIG Hotline Operations at 202-245-6911, or as follows:

Lisa Foster  
Special Agent in Charge  
Headquarters Operations  
202-245-7058  
[lisa.foster@ed.gov](mailto:lisa.foster@ed.gov)

Melissa Hall  
Hotline Analyst  
OIG Hotline  
202-245-7049  
[melissa.hall@ed.gov](mailto:melissa.hall@ed.gov)

Millie Coles  
Hotline Analyst  
OIG Hotline  
202-245-7031  
[millie.coles@ed.gov](mailto:millie.coles@ed.gov)

**Any information furnished to you or your agency by the Office of Inspector General (OIG) may not be released except by the OIG.**

**Complaint 1 of 3**

**COMPLAINT UNDER THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)**

December 30, 2013

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

RE: (b)(6); (b)(7)(C)

I hereby lodge an official complaint against the School District of Georgia (b)(6); (b)(7)(C) Academy/ (b)(6); (b)(7)(C) on behalf of (b)(6); (b)(7)(C) who attends (b)(6); (b)(7)(C) l. I believe (b)(6); (b)(7)(C) Learning/Pearson Education an (b)(6); (b)(7)(C) school which is a recipient of Federal Financial Assistance under IDEA/504 and Title 1.

Address: (b)(6); (b)(7)(C) Head Principal of School, (b)(6); (b)(7)(C) Georgia (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) CEO, Coporate Headquarters, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)

Parent Company: (b)(6); (b)(7)(C)

**Complaint # 1 of 3:**

- Inappropriate maintenance of records/content
- A violation of the Family Educational Rights and Privacy Act of 1974.

**The nature of the complaint is as checked:**

Challenge to Record or Content

- Inaccurate
- Misleading
- Incomplete
- Inappropriate

**Record challenged may be identified as:** 12/20/2013 IEP NOTIFICATION/NOTICE OF

MEETING:

**INAPPROPRIATE**

A. A **court reporter** is listed as an IEP team MEMBER: **THIS IS INAPPROPRIATE MEMBER: VIOLATES** confidentiality. Court REporter does not have

a legitimate educational Interest in my child. Court REporters submit my child's sensitive medical information & educational records to be transcribed to other

people. (used to intimidate, bully, harm and harass)

**MISLEADING/INACCURATE**

B. Attorney/Counsel for Connections Academy is listed on 12/20/2013 Notification as **COMMITTEE MEMBER**. Attorneys are not members of the IEP team.

C. Names of School invited people are left blank or written as **OTHER** and Positions not filled in but as other on Notification/Invitation.

(Parent requested that ALL names and positions be filled in.)

Person(s) responsible for Entry or person (s) currently maintaining record: (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) **Speical Ed Director,** (b)(6); (b)(7)(C) **Special ED TEacher,** (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C) **Head Principal**

**Date challenged content discovered:** December 20-21, 2013

**Complaint 2 of 3: REFUSAL TO RECOGNIZE MY RIGHTS AS A PARENT/Correct FERPA RECORDS/NOTICE OF MEETING/Tampering with educational documents**

1. December 20, 2013 I requested the Notice of Meeting (NOM) which is a part of my child's FERPA Record to be corrected to show the names of all

participants at the IEP Meeting; including the name of the Inappropriate Court reporter who gained access.

2. I made several request to correct and send me a corrected copy of the notice of meeting dated 12/20/2013.

3. I uninvited the Inappropriate Person/Courtreporter on the notice of meeting; but GCA refused to correct the Notice and uninvite the courtreporter.

4. Again, my objection went unnoticed and unresponded to. My rights as a parent was not recognized under FERPA (Will provide documentation to investigator))

5. On going bullying, strong arm tactics, intimidation not correcting corrections

6. 8/19/2013 IEP took 5 request for me to get a FINAL copy. A copy on 8/19/2013 Director (b)(6); (b)(7)(C) hand wrote FINAL on a incomplete copy and gave

it to me on 8/19/2013 and page 25 was not filed in. Ms. (b)(6); (b)(7)(C) Mailed me a copy 1 month later after 5 requests; Page 25 fraudlently filled out with information.

7. **I was never given parental RIGHTS before or during the IEP meeting on 8/19/2013 but Ms. (b)(6); (b)(7)(C) FRAUDLENTLY filled in this information on page 25 of the IEP.**

**Complaint 3 of 3: INAPPROPRIATE/INCOMPLETE IEP FOR XP/Oudated Information/Not letting parents admend**

1. **No Transition PLaN**

2. **IEP does not contain all parental concerns given as a document to Connections ACademy**

5. On going bullying during IEP meetings not listening to parents, strong arm tactics, bullying not correcting records

**(Will provide documentation to investigator.)**

**DEFINITIONS**

1. **Personal Identifiable Information**

The FERPA regulations define "personally identifiable information" so that it includes, but is not limited to:

- a. The student's name
- b. The name of the student's parent or other family member;
- c. The address of the student or student's family;
- d. A personal identifier, such as the student's social security number or student number;
- e. A list of personal characteristics that would make the student's identity easily traceable; or
- f. Other information that would make the student's identity easily traccable.

2. **IEP TEAM**

According to IDEA 2004, Section 1414(d)(1)(B), the IEP team includes:

(i) the **parents** of a child with a disability;

(ii) **not less than 1 regular education teacher** of such child (if the child is, or may be, participating in the regular education environment;

(iii) **not less than 1 special education teacher**, or where appropriate, not less than 1 special education provider of such child;

(iv) a representative of the local educational agency . . .

(v) an individual who can interpret the instructional implications of evaluation results . . .

(vi) at the discretion of the parent of the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(vii) whenever appropriate, the child with a disability."

Yours Truly,

(b)(6); (b)(7)(C)

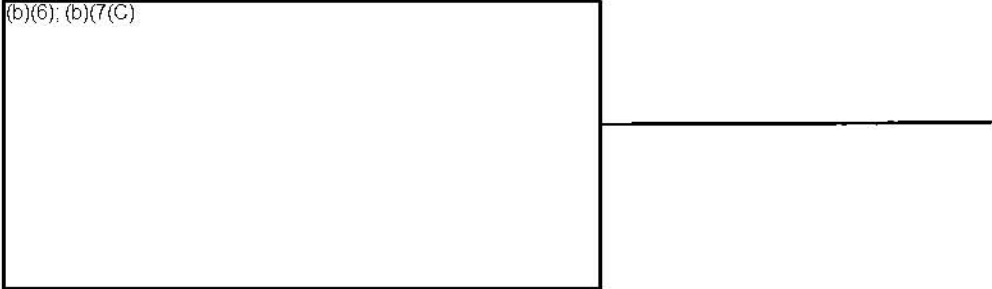
(Parent Name)

\_\_\_\_\_  
**Signature**

(b)(6); (b)(7)(C)

**SIGNATURE PAGE**

(b)(6); (b)(7)(C)



November 26, 2013

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

DEC 03 2013

To Whom It May Concern:

It is my understanding that the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) protects the privacy of student education records. I currently attend the [REDACTED] and, on September 18, 2013, I was placed under interim restrictions by the University for allegedly violating the University's Code of Conduct. During the process of this ongoing matter, I believe that the University violated the provisions of FERPA and I am, therefore, filing this complaint and ask that the Family Policy Compliance Office investigate my complaint.

Please see the attached email chain, which began with an email sent to me by [REDACTED] Associate Dean of Students on September 25, 2013. On October 4, 2013, my mother, [REDACTED] replied to [REDACTED]. The emails contain private details in regard to the interim restrictions set in place by the University. In responding to both my mother and me on October 4, 2013, [REDACTED] also courtesy copied [REDACTED] Office Manager at the University, stating, "[REDACTED] please call [REDACTED] to schedule an appointment with me." I believe that [REDACTED] violated FERPA by copying the office manager.

I understand per <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html> that FERPA allows schools to disclose records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

- School officials with legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

I believe none of these conditions existed to allow for the sharing of the above-described information with [REDACTED]

Also, per the University's website at [REDACTED]

The University will not permit access to or release of a student's educational records, or personally identifiable information contained therein (other than directory and public information), to third parties, without the student's written consent, except to the following:

- A. Other University officials who have a legitimate educational interest in a student's record. The University defines "University officials" as any professional employee who is head of an office, department, school, college, division, or their specified designee. The term "University official" shall also include any contractor, consultant, volunteer of other party to whom (b)(6); (b)(6); (b)(7) has outsourced institutional services or functions. A university official has a "legitimate educational interest" if the official needs to review an education record in order to fulfill his or her professional responsibility. The University may disclose, to teachers and school officials in other schools who have legitimate educational interests in your behavior, disciplinary action taken against you for certain kinds of conduct.

I believe (b)(6); (b)(7)(C) Office Manager, did not have a legitimate educational interest to the information contained in (b)(6); (b)(7)(C) email regarding matters that involve my student record. I also believe that (b)(6); (b)(7)(C) did not need to review all the information which involves my education record in order to fulfill her professional responsibility (meeting scheduling).

Please investigate this matter. Thank you.

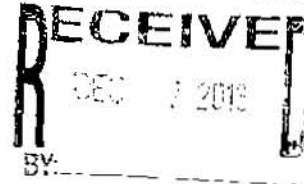
Sincerely,

(b)(6); (b)(7)(C)



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

November 20, 2013



RE: Official Complaint - Freedom of Information Act

I, (b)(6); (b)(7)(C) current student at (b)(6); (b)(7)(C) College, hereby bring forth an official complaint against the (b)(6); (b)(7)(C) College Systems (b)(6); (b) Administration, Board of Directors, Sex Offender Review Committee (SORC), (b)(6); (b) Campus Police Department and any other applicable departments. This complaint shall be addressed to the Family Compliance Office of The U.S. Department of Education (DOE), having jurisdiction over the Freedom of Information Act (FOIA) complaints against named institution.

**Complaint:**

I assert that (b)(6); (b)(7)(C) has knowingly violated my constitutional rights (FOIA, 5 U.S.C 552) by unlawfully sharing personally identifiable information (current address, information regarding "past bad acts") without written request or my consent, which, when released, could reasonably be expected to constitute an unwarranted invasion of privacy.

I also assert that (b)(6); (b)(7)(C) has shared this information to an unknown number of its affiliates (public and private), a third party for profit organization (Crime Star, Inc.) and numerous students involved in the (b)(6); (b)(7)(C) work study program, by improperly classifying such data as "education information".

(b)(6); (b)(7)(C) ADMINISTRATION (SORC) unlawfully stores and shares personally identifiable information and details of criminal offenses of student sex offenders, created by the Texas Department of Public Safety, though state law explicitly dictates that educational institutions have no such jurisdiction to freely share this information or store it electronically. (Art. 62.004 Texas Criminal Code of Procedure)

(b)(6); (b)(7)(C) is operating a division of criminal justice, against the will of its subjects and without authority (Sex Offender Registration Program) fully equipped with an electronic database and review committee which explicitly involves the sharing of my personally identifiable information with an intent to constitute an unwarranted invasion of privacy.

**Unlawful Collection:**

(b)(6); (b)(7)(C) Board Policy (D4.5.1) requires me to register all of my personally identifiable information, along with any risk level information provided and otherwise governed by the Texas Department of Public Safety (TX DPS) concerning my status as a registered sex offender, into an electronic database operated by (b)(6); (b)(7)(C) campus police. I am an unwilling participant in the (b)(6); (b)(7)(C) sex offender registration program and sex offender treatment (cruel and unusual punishment) provided to me by the unlicensed (b)(6); (b)(7)(C) Sex Offender Review Committee (see CH 109, Texas Occupations Code). Texas law explicitly states that unless notified in advance via certified mail by the TX DPS, who maintains sex offender jurisdiction, I shall only register to a centralized registration authority as mandated by TX DPS. (Art. 62.004 Texas Code of Criminal Procedure.) In my individual case, TX DPS has designated the Fort Bend County Sheriff's Department as my centralized registration site deeming unlawful the (b)(6); (b)(7)(C) policy that I REGISTER biannually to the

(b)(6); ( campus police and submit to the electronic storage of said information (ART. 62.004 Texas Code of criminal Procedure).

### Information Sharing:

This electronic (b)(6); ( SEX OFFENDER REGISTRATION DATABASE and all information entered therein is immediately shared with Crime Star Inc. which owns, updates and maintains the database and all software associated with it's operation. It is reasonable to believe that Crime Star Inc. would share this information in order to earn profits. Multiple assigned instructors (of current and previous courses) have expressed to me that they have been notified of my sex offender status as well as my home address, without request, by the (b)(6); ( administration. (b)(6); ( also networks all of said information with other institutions of higher learning of which I do not plan to attend, non-jurisdictional law enforcement (Harris County, City of Houston), probation officers (I am neither on probation nor parole) and other unknown affiliates without my written request or permission. (b)(6); ( shares this information aggressively (without receiving a written request for it) in order to defame my credibility among the college community making it impossible for me to socially interact effectively amongst my peers as well as my instructors.

I feel paranoid and fearful of my safety when I physically attend any of the (b)(6); ( campuses. I do not feel comfortable applying for any work study position within the school. I will not feel comfortable attending my graduation. I currently attend (b)(6); ( under duress because of this unlawful information sharing and have noticed, since attending (b)(6); ( my status as a sex offender on numerous defamatory 'for profit' websites online and believe that (b)(6); ( in conjunction with Crime Star Inc. have shared, or made available for profit, my information to these defamatory websites.

The FOIA, FERPA and other applicable federal and state laws protect me from (b)(6); ( and their position as an institution of higher learning, sharing my education or any personally identifiable information (address, phone number, etc.), without request or my consent, that could reasonably constitute an unwarranted invasion of privacy or in any way attempt to put my safety at risk or defame my character by emphasizing "past bad acts". (b)(6); ( is well aware of my position and stands behind freely collecting and sharing this information without regard to the law, my safety, my privacy, or my right of equal access to education (see attached (b)(6); ( complaint and response). Though this information is essentially collected by the (b)(6); ( Police Department, (b)(6); ( cites FERPA guidelines, insinuating that they are disclosing said data as "education information". (b)(6); ( also cites) "registration of certain sex offenders" (Art. 62.153 Texas Code of Criminal Procedure) as a reference to their authority requiring that I register my information with campus police each semester. However, Art. 62.153 "registration of certain sex offenders" explicitly pertains to out of state transfers attending a college in this state, leaving me to assume these actions are intentionally and knowingly performed by (b)(6); ( unlawfully to cause harm as well as an unwarranted invasion of my privacy.

### School Policy:

(b)(6); ( Board of Directors has established policy (b)(6); ( Board Policy D4.5.1) in order to operate an electronic database, without jurisdiction, for the sole purpose of collecting, tracking and sharing personally identifiable information of student sex offenders who live inside the state of Texas. The (b)(6); ( campus police department positively links me to the information without fingerprint verification. By way of administrative HOLD, (b)(6); ( forces me, against my will to REGISTER updated personally identifiable information into this database in order to attend school each and every semester. The policy defines this as "notification", though correspondence from the (b)(6); ( Sex Offender Review Committee cites a requirement to "REGISTER as a sex offender" which is defined by state law as criminal punishment.

This policy states that, due to the 'administrative HOLD' on my student account, before I can request entry to new classes, I must REGISTER my information each semester (or face expulsion), even though I have "notified" (b)(6); (b)(7)(C) Campus Police of my status on multiple occasions. I am also required to communicate (through email only) with the SRC (Student Review Committee) regarding my status as a registered sex offender, due to the 'administrative HOLD' which prevents me from enrolling on my own. The SRC claims to require approval from another group of unknown individuals referred to as the SORC (Sex Offender Review Committee) prior to allowing my registration into required classes. This requirement has cost me time, money and delayed coursework/graduation by means of the SRC delays in their communications:

This administrative HOLD prohibits me from "self service" online class registration. When I send in my request, I have researched the classes I need to fulfill my degree requirement, checked the online registration system for class availability, and sent the required email request to the SRC for approval. The SRC then claims to send my request to the SORC for approval. I provide a list of my requested classes (required for my degree) with ample time to gain entrance to the classes. The SRC has, on multiple occasions, delayed their responses (more than a month) costing me entrance due to classes filling up as I wait for their approval. This is interfering with my ability to complete my degree in a timely manner.

The individuals I am communicating with, and depend on, to enroll me through this email routine are anonymous and I believe are student workers without a license to provide sex offender treatment inside the state of Texas; assisting student sex offenders with enrollment issues, reviewing sex offender registrant information and reviewing risk classification as stated in the (enclosed) (b)(6); (b)(7)(C) response to my previous complaint, acting as the (b)(6); (b)(7)(C) Sex Offender Review Committee who have been notified of "past bad acts", my current address, and phone number.

### Remedies:

I ask that the DOE investigate this matter in good faith and assist me with this issue by ceasing (b)(6); (b)(7)(C) of any collecting and sharing of my personally identifiable information (outside of standard business practices) without my consent as well as ceasing the existence of the (b)(6); (b)(7)(C) relationship with Crime Star Inc. and any other affiliates connected to (b)(6); (b)(7)(C) sex offender registration database. I ask that the DOE assist me in having the "Administrative Hold" removed from my (b)(6); (b)(7)(C) student account, allowing me to enroll in classes on my own and in a timely manner and prevent me from having to discuss any information regarding "past bad acts" with any anonymous members of the (b)(6); (b)(7)(C) SRC or SORC. I ask that the DOE obtain and release to me, the names of the individuals making up the (b)(6); (b)(7)(C) SRC and SORC in order to verify proper licensing requirements of these individuals to provide sex offender treatment by the state of Texas (CH. 109 Texas Occupations Code "sex offender treatment providers"). I will need these names in order to file proper written complaints with the Texas State Council on Sex Offenders. If any of these violations warrant, I request that the DOE file a complaint on my behalf with the US Department of Justice addressing the (b)(6); (b)(7)(C) involvement in criminal punishment and imprisonment because registering as a sex offender is a criminal sentence in which (b)(6); (b)(7)(C) has no authority to execute and federal and state laws protect me from "dual and successive punishments". Upon findings of violations of the FOIA by the DOE Family Compliance Office, I request that the DOE represent me in challenging (b)(6); (b)(7)(C) and any affiliates in court proceedings (federal and state) to be held liable for any damages "actual, monetary compensatory, and or punitive" caused to (b)(6); (b)(7)(C) as a result of this unlawful sharing of personally identifiable or education information without permission or written request which could reasonably constitute an unwarranted invasion of privacy, sharing of my education records containing information regarding "past bad acts" or personally identifiable information that are not considered by law to

be educational records (without written request or my written consent) as allowed by DOE policy or civil law.

**Reference:**

My status as a registered sex offender and my obligation to register personally identifiable information which links me to a past bad act, is a criminal prison sentence executed by the criminal justice division of the State of Texas and was established by, is property of, and governed by the Texas Department of Public Safety, and as mandated by the TX DPS only to be made publicly available by the department of creation to "concerned citizens", who in good faith for the welfare and safety for themselves or their family request it individually" (Art 62 Texas Code of Criminal Procedure). Registered sex offenders can only be positively linked to any information made public by the department by matching an individual's fingerprint to the fingerprints on file along with any registration information collected by the TX DPS.

I, (b)(6); (b)(7)(C), hereby swear that the foregoing information regarding the events leading up to this complaint are true, correct, and to the best of my knowledge, punishable by penalty of perjury.

(b)(6); (b)(7)(C)

ENCLOSURES: (b)(6); (b)(7)(C) COMPLAINT (ORIGINATED BY (b)(6); (b)(7)(C))  
(b)(6); (b)(7)(C) RESPONSE TO COMPLAINT  
APPROVAL LETTER FROM (b)(6); (b)(7)(C) SORC

USPS CERTIFIED MAIL ARTICLE (b)(6); (b)(7)(C)

DEC 11 2013

Nov 28<sup>th</sup> 2013

Dear Family Policy compliance office,

Your office was contacted long ago to process a claim to obtain my student records under *the family educational act of 1974* – Federal law that your office is responsible for. This is supposed to be free of charge and among many aspects of this act is a student's right to: gain full and complete access to student records, and to challenge the accuracy of those records, and to submit evidence to the contrary – making such counter evidence part of the record, holding educational institutions liable for knowing marinating and withholding such; as is the present case. Approximately a year and a half has past now since the date of this letter.

Your office was provided the proper compliant and filing forms, provided to your office, and promptly returned to your office, in regards to (b)(6); (b)(7(C)) N.C.) and (b)(6); (b)(6); (b)(6) also known as (b)(6); (b)(7(C)) (N.Y.) as described in the above paragraph. These complaints were copied and provided to my attorney's office (b)(6); (b)(7(C)) which we need for Federal court. Although, he has had surgery and is on limited work and my copy's in deep in storage. I had called several times in the past and I was told several times my claims were being processed, and not to bother your office. I was informed by telephone conversation once you did not have the (b)(6); (b)(7(C)) complaint. I had informed the young lady in your office you did receive this request along with numerous documents (I had referred to, "the (b)(6); (b)(7(C)) case file", which contained my requests for the records, numerous attorneys who had requested my student records, and accusative evidence to show (b)(6); (b)(7(C)) was guilty of numerous Federal laws and human rights violations against me, but not limited to. This packet was sent certified mail with return receipt. Fact, your office received and signed for it. It is also in storage, and fifteen hundred miles away; but will be made available to correct you, and compensate myself in the future. Your office's response, the same young lady in question, stated "we don't keep those things (records) we have a small office and don't have the room". At this point to the date of this letter, I am now to assume you had discarded my complaint – request for my (b)(6); (b)(7(C)) records and supporting evidence as rubbish ?

Enclosed is a letter stating that you have processed my Family educational act of 1974 (a free and legal right to have access to these records) concerning my (b)(6); (b)(7(C)) records as a F.I.O.A. request and you have not provided them to me in a year and a half because you are demanding money for them, nor have you informed me of this demand. You have also not provided me with an additional form for request for (b)(6); (b)(7(C)), as I am requesting now as I did once again over the phone in the past if you had discarded it. You also stated in the past I had provided no evidence to show I had requested my (b)(6); (b)(7(C)) records (that I had provided to your office registered mail and your office had discarded them). In turn I had responded, with no response in my letter dated received Aug 12 2013 page # 1 the list of attorneys that requested my records from this university. One attorney I did not mentioned in the letter in question enclosed, personally accompanied me to a meeting with (b)(6); (b)(7(C)) at a meeting, (b)(6); (b)(6) had threatened my counsel who he and I were demanding my records, which we never got; details are still available.

My current attorney, (b)(6); (b)(7)(C) who had called your office nonstop (well over fifty times in over a year) and wrote you as a final attempt of communication to obtain these records (Family educational act of 1974) has went completely ignored, why. PLEASE CONTACT HIM SO HE MAY ASSIST YOU IN PROCESSING AND DELIVERING MY (b)(6); (b)(7)(C) (N.C.) AND (b)(6); (b)(7)(C) STUDENT RECORDS A.S.A.P. IT IS YOUR OFFICES JOB TO DO SO. HIS PH # IS (b)(6); (b)(7)(C) STOP PROTECTING THESE ACADEMIC CRIMINALS AND PLEASE START DOING YOUR JOB AND DELIVER BOTH SETS OF THESE UNIVERSITY RECORDS. Attorney (b)(6) has all documentation reading both of these universities that you may require to process your claim, which has already been provided to you.

Please read my enclosed letter dated aug 12<sup>th</sup> 2013 to dear corwin Jennings and fully answer the questions posed in this letter. In the flurry of correspondences they have responded to me to direct my requested answers from your office; please do so.

Please re arrange whatever forms are needed to reprocess for my request to obtain my (b)(6); (b)(7)(C) records) through the family educational act of 1974 – a free non fee federal right. You must take responsibility for mishandling and losing this request that was handled properly at my end. Therefore PLEASE EXPEDITE THIS CLAIM. Please released the processed (b)(6); (b)(7)(C) records as free of charge under the family educational act of 1974 (as requested) instead of a F.O.I.A request as wrongfully processed.

If your office is unwilling or unable to obtain and proceeded – deliver to me, both university records under the family educational act of 1974 – as is your offices primary legal function, and you insist in obtaining a fee as a F.O.I.A. request (\$ 31.40 x 2 = \$ 62.80) please correct me if I am wrong regarding the theoretical total). I WAS NOT AWARE OR INFORMED BY YOUR OFFICE THAT YOU WERE DEMANDING MONEY TO PROCESSES THIS REQUEST UNTIL CORWIN JENNINGS INVESTIGATION THIS PAST SUMMER AND FALL, WHY ? If this route is taken it will later become part of the legal record against your office. Currently, the primary goal is to obtain these records I have a legal access to that has been wrong fully denied, excessively delayed, and has directly resulted in: personal, professional, and financial harm. Please reconsider your position better.

(b)(6); (b)(7)(C)

CC [redacted]

Glenn Thompson congressman

Corwin Jennings



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF MANAGEMENT

November 22, 2013

(b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This is to respond to your May 23, 2013, inquiry in which you requested guidance as to how an educational institution can meet its obligations under the Family Educational Rights and Privacy Act (FERPA) without a written agreement when it discloses education records to a State longitudinal data system. In particular, your question was in the context of a Maryland law that requires your institution, the (b)(6); (b)(7)(C) and other online institutions that provide distance learning to Maryland students and that are required to register under § 11-202.2 of the Annotated Code of Maryland to send personally identifiable information (PII) from education records to the Maryland Longitudinal Data System (MLDS).

Please note this office administers FERPA and provides technical assistance to ensure compliance with FERPA and its implementing regulations (20 U.S.C. § 1232g and 34 CFR § 99 respectively). This office typically does not interpret state law, though sometimes we must do so to administer FERPA, e.g., to determine whether a State law conflicts with FERPA. In this matter, this office takes no position on what Maryland law requires, the legality of the relevant Maryland laws, or what if any duty is imposed by the laws on educational institutions, such as the University.

This office has discussed your inquiry with Counsel to the Maryland Higher Education Commission (Commission), who also works as an Assistant Attorney General in the State of Maryland's Office of the Attorney General (Office of the Attorney General), and relies on her representations concerning the requirements of Maryland State law. Consequently, based upon the information that both of you have provided to us, this office provides guidance on what the University must do in order to meet its obligations under FERPA before disclosing personally identifiable information (PII) from students' education records to the MLDS.

As indicated above, this office contacted the Counsel to the Commission in order to obtain information about the Maryland laws and practices regarding disclosure requirements for the MLDS. In letters and phone conversations, the Counsel to the Commission explained the following:

“[T]he Commission has a role with respect to higher education that is similar to the Maryland State Department of Education's role with respect to K-12 education. Its role is broader in that the Commission must approve all institutions – for-profit, non-profit,



private, public, in-state and out-of-state -- that operate in the State with the exception of those institutions authorized by the Maryland General Assembly or those religious institution that are exempt from the certificate of approval process. Education Article (ED) §§ 11-202, 11-202.1. The Commission reviews all programs offered in Maryland, ED §§ 11-206, 11-206.1, and as of July 1, 2012, it must register every 100% online institution that has Maryland students. ED § 11-202.2.”

Counsel to the Commission also explained that Maryland statute and regulations provide the authority for the Commission to collect data, including individual student record information, for the purposes of (i) planning, (ii) evaluation of education programs, and (iii) instructional improvement from institutions that must be registered or authorized to operate in Maryland. Moreover, as of July 1, 2012, Maryland has a statute that requires online institutions that provide distance learning to Maryland students and that are required to register under § 11 202.2 of the Annotated Code of Maryland to submit education records (and specifically student-level enrollment data, degree data, and financial aid data) to the Maryland Longitudinal Data System Center (Center), the entity in charge of operating the MLDS. ED § 24-707(c). The Commission further explained that the Center is an authorized representative of the Commission under Maryland law. ED § 24-703(e). The Center uses the MLDS and the education records it has compiled “to improve the State’s education system and guide decisionmaking by State and local governments, educational agencies, institutions, teachers and other educational professionals.” ED § 24-703(f)(4).

In response to your inquiry it is important to note that postsecondary institutions subject to FERPA cannot have a policy or practice of permitting the disclosure of education records or PII contained therein without the written consent of eligible students or an applicable exception to the requirement of consent. 20 U.S.C. § 1232g(b)(1) and (b)(2); 34 CFR § 99.30(a). One of the exceptions to the requirement of consent is the audit and evaluation exception. Authorized representatives of State educational authorities “may have access to education records in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs.” 34 CFR § 99.35(a)(1).

To ensure that the University meets its obligations under FERPA, the University must determine that under FERPA the Commission properly has designated the Center as its authorized representative through a written agreement before disclosing education records to the Center. Furthermore, the University must determine that the disclosure is in connection with an audit or evaluation of a Federal- or State -supported education program, or to enforce or to comply with Federal legal requirements that relate to those education programs.

In order for an entity to be designated as an authorized representative, a State educational authority must designate the entity as such in a written agreement. 34 CFR § 99.35(a)(3)(i). The Commission is a State educational authority under FERPA. This office has traditionally interpreted the term State educational authority to include State postsecondary commissions such as the Commission. Therefore, the Commission has the ability to designate the Center as an authorized representative. However, a statute stating that the Center is an authorized representative is insufficient. The FERPA regulations require that a State educational authority designate its authorized representative through a written agreement. 34 CFR § 99.35(a)(3)(i). This regulatory requirement on what these written agreements must contain went into effect on January 3, 2012, except for those situations in which there was already a written agreement in

place on January 3, 2012, in which case the written agreement only would need to be revised to reflect the new regulatory requirements when the written agreement with the authorized representative was renewed or amended.

The FERPA regulations require that the written agreement between the Commission and the Center contain several provisions. Section 99.35(a)(3) specifically requires that the following provisions be included in written agreements under the audit or evaluation exception:

1. Designate the individual or entity as an authorized representative.
2. Specify the PII from education records to be disclosed.
3. Specify that the purpose for which the PII from education records is being disclosed to the authorized representative is to carry out an audit or evaluation of Federal- or State-supported education programs, or to enforce or to comply with Federal legal requirements that relate to those programs.
4. Describe the activity with sufficient specificity to make clear that it falls within the audit or evaluation exception.  
Require the authorized representative to destroy the PII from education records when the information is no longer needed for the purpose specified.
5. Specify the time period in which the PII must be destroyed.
6. Establish policies and procedures, consistent with FERPA and other Federal and State confidentiality and privacy provisions, to protect PII from education records from further disclosure (except back to the disclosing entity) and unauthorized use, including limiting use of PII from education records to only authorized representatives with legitimate interests in an audit, evaluation, or enforcement or compliance activity.

This office has provided detailed guidance on the written agreement requirements related to the audit and evaluation exception which can be found here:

[http://www2.ed.gov/policy/gen/guid/fpeo/pdf/reasonablemtd\\_agreement.pdf](http://www2.ed.gov/policy/gen/guid/fpeo/pdf/reasonablemtd_agreement.pdf)

If the Commission has properly designated the Center as an authorized representative of the Commission, the University may disclose the requested student records to the Center under the audit and evaluation exception as long as the Center's receipt of the records is in connection with an audit or evaluation of a Federal- or State-supported education program, or to enforce or to comply with Federal legal requirements that relate those education programs. As specified in the FERPA regulations, 34 CFR § 99.3, the education program to be audited or evaluated must be principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution. The written agreement between the Center and the Commission must meet the requirements of 34 CFR § 99.35(a)(3) as discussed above.

No provision in FERPA requires the University to have a written agreement with the Center before disclosing the education records. Additionally, the University is not required to have a written agreement with its own State educational authority. Under the audit and evaluation exception to FERPA, a written agreement is required only between an authorized representative (other than an employee) and the State or local educational authority (or Federal agency headed by an official listed in 34 CFR § 99.31(a)(3)) that is designating the authorized representative,

on its behalf, to conduct an audit or evaluation of a Federal- or State-supported education program or to enforce or to comply with Federal legal requirements that relate those education programs. 34 CFR § 99.35(a)(3)(i). As such, the University may meet its obligations under FERPA in this situation without having a written agreement with any of the relevant parties. However, before disclosing education records to the Center, the University must determine that the Center and Commission have a written agreement that properly designates the Center as an authorized representative of the Commission. The University must, either through the established written agreement or other means, also determine that its disclosure to the Center is in connection with an audit or evaluation of a Federal- or State-supported education program, or to enforce or to comply with Federal legal requirements that relate to those programs.

I trust this information is responsive to your inquiry. Please do not hesitate to contact this office if you require further assistance in this regard.

Sincerely,

(b)(6); (b)(7)(C)

Dale King  
Director  
Family Policy Compliance Office

cc: Catherine Shultz  
Assistant Attorney General  
Maryland Higher Education Commission

November 9, 2013

NOV 18 2013

(b)(6); (b)(7)(C)

**Re: Violation of My Rights Per an Improper Redaction of FERPA Records**

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-5901

Dear FERPA Compliance Officer:

My name is (b)(6); (b)(7)(C) I was a student at the (b)(6); (b)(7)(C) School of Law. I am writing to report a violation of my rights as they are protected under FERPA. This violation occurred when the (b)(6); (b)(7)(C) redacted or attempted to redact some FERPA records I requested under the redaction criteria set forth in the Public Records Act (PRA). As you can see from Exhibit 1, an official from the (b)(6); (b)(7)(C) admitted that (b)(6); (b)(7)(C) has been double redacting my FERPA requests for information. As Exhibit 1 makes clear, the University first redacted my records in accord with the criteria set forth in FERPA, and then they also redacted these records in accord with the criteria set forth in PRA. Such a redaction may have caused me to receive fewer records than what I am entitled to see.

Please investigate this violation of my rights under FERPA. If you need to contact me, you may write me at (b)(6); (b)(7)(C) or call me at (b)(6); (b)(7)(C). Thank you ahead of time for responding to this complaint.

Sincerely,

(b)(6); (b)(7)(C)

CCed: (b)(6); (b)(7)(C) Registrar for (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

NOV 18 2013

(b)(6); (b)(7)(C)

November 8, 2013

**VIA U.S. MAIL**

Dale King  
Director/Family Policy Compliance Office  
Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Ave., SW  
Washington, DC 20202-8520

RE:

(b)(6); (b)(7)(C)

Dear Mr. King:

This is written in response to your October 27, 2013 letter to (b)(6); (b)(7)(C) formerly of this office. In your letter, you indicate that the DOE declines to open an investigation into allegations of FERPA violation made by my client because the DOE found insufficient factual allegations of a FERPA violation in the complaint. Your letter indicates that some of the issues raised by my client may be redressible through a complaint brought under Part B of the IDEA.

Please be advised that my client considers this matter closed and does not intend to pursue these claims in any forum.

Sincerely,

(b)(6); (b)(7)(C)

OF THE LAW OFFICES OF BONNIE Z. YATES

cc:

(b)(6); (b)(7)(C)

(b)(6) |bm

(b)(6); (b)(7)(C)

DEC 05 2013

November 25, 2013

**FEDERAL EXPRESS**

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC, 20202-4605.

Re: **FERPA Complaint – Martin County School District, Florida**

To Whom It May Concern:

I am writing on behalf of my brother, (b)(6); (b)(7)(C), the father of two children attending schools in the Martin County School District ((b)(6); (b)(7)(C)) located in the State of Florida, with an office address at 500 E. Ocean Blvd. Stuart, FL 34994. I am writing to file a complaint on (b)(6); (b)(7)(C) behalf in connection with what he alleges is a violation by the School District of his rights under the Family Educational Rights and Privacy Act ("FERPA"). Specifically, the School District has refused his requests to receive, inspect and/or review email communications between his ex-wife and school personnel, including teachers and administrators, relating to matters of his children's education, such as teacher comments and observations, notwithstanding that he shares full and equal co-parenting rights with his ex-wife.

(b)(6); (b)(7)(C) requests are detailed within the correspondence and emails attached as Exhibits A, B, C, D and E to this letter. As you will note, on September 10, 2013, the School District advised (b)(6); (b)(7)(C) that it "will not be able to share [the subject] emails without [his] ex-wife's permission." (The ex-wife has refused to include (b)(6); (b)(7)(C) in her communications with teachers and administrators.) According to the School District, the decision to refuse (b)(6); (b)(7)(C) access to these records is prompted by concerns that disclosing them would "create[] litigation issues", presumably with (b)(6); (b)(7)(C) ex-wife. (Exhibit E) As such, the School District has chosen to refuse a parent -- in this case (b)(6); (b)(7)(C) -- access to communications with, *inter alia*, teachers and counselors relating directly to the education of the parent's child because the other parent may object.

FERPA insures (b)(6); (b)(7)(C) right, as a custodial parent, to inspect and review "Educational Records". Such "Educational Records" surely include the emails at issue in his request to the School District, as the statute makes clear that records covered thereunder can exist in that medium; I do not believe that there can be any disputing that an email with a teachers or administrator commenting on a student falls within the definition of "Educational Records".<sup>1</sup> Further, the statute confirms that there can be no expectation of privacy between parents in communications about a child that constitute "Educational Records".

While I appreciate the prompt response by the School District, I believe that the analysis on which it relies in denying (b)(6); (b)(7)(C) request is seriously flawed. FERPA guarantees (b)(6); (b)(7) the right to the records he seeks in the attached requests, and the School District's concern over (what would be a frivolous) litigation by one parent who would seek to prevent another parent from access to communications about his/her child has no place in the analysis of the obligations of the School District under FERPA. In short, it should not be incumbent upon any custodial to seek permission from anyone to secure Educational Records of his/her child.

For the foregoing reasons, I respectfully request that Family Policy Compliance Office investigate this complaint and find the School District's policy reflected in the enclosed to be violation of FERPA, and direct compliance with (b)(6); (b)(7)(C) request for the records referred to therein. Given the professionalism and courtesies afforded by the School District to date, as reflected in the attached, I assume that its Board members will appreciate guidance from your office.

Thank you in advance for your attention to this matter. If you have any questions, please do not hesitate to contact me, or (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)

Very truly yours,

(b)(6); (b)(7)(C)

cc: Martin County School District (Office of the Superintendent)

(b)(6); (b)(7)(C)

<sup>1</sup> Under FERPA, education records include records, files, documents, and other materials maintained by an educational agency or institution which contain information directly related to a student. In Florida, state board rule 6A-1.0955 defines educational records to include "teacher comments".

(b)(6); (b)(7)(C)

DEC 11 2013

December 6, 2013

**FEDERAL EXPRESS**

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC, 20202-4605.

Re: **FERPA Complaint – Martin County School District, Florida**

To Whom It May Concern:

I am writing on behalf of my brother, (b)(6); (b)(7)(C) the father of two children attending schools in the Martin County School District (the "School District") located in the State of Florida, with an office address at 500 E. Ocean Blvd. Stuart, FL 34994.

By my letter dated November 25, 2013, (b)(6); (b)(7)(C) submitted a complaint in connection with what he alleged was a violation by the School District of his rights under the Family Educational Rights and Privacy Act (the "FERPA Complaint"). A copy of the FERPA Complaint, without referenced exhibits, is attached hereto for reference.

Since submission of the FERPA Complaint the issues addressed therein have been resolved with the School District to (b)(6); (b)(7)(C) satisfaction. As such, (b)(6); (b)(7)(C) herein withdraws his FERPA Complaint.

Given that the School District acted on this matter in a most expeditious (and courteous) manner, I trust that your agency has not yet begun an investigation.

Very truly yours,

(b)(6); (b)(7)(C)

cc: Martin County School District (b)(6); (b)(7)(C)





COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

November 19, 2013

NOV 25 2013

Dale King, Director  
Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Ave., S.W.  
Washington, D.C. 20202-8520

Dear Mr. King:

The Pennsylvania Department of Education (Department) seeks your informal guidance and assistance with respect to an interpretive question under the Family Educational Rights and Privacy Act (FERPA). In particular, we would like to know: In your informal opinion, does FERPA permit the nonconsensual release by the Department (through its contractor) of certain education records of charter school students to the school district that granted the charter school its charter (Chartering School District)?

Under the Pennsylvania Charter School Law (CSL), a charter school is defined as "an independent public school established and operated under a charter from the local board of school directors and in which students are enrolled or attend." 24 P.S. § 17-1703- A. In Pennsylvania, a charter school is a local educational agency (LEA) and is responsible for the education of students enrolled in the charter school. Pursuant to the CSL:

(a) The local board of school directors shall annually assess whether the charter school is meeting the goals of its charter and conduct a comprehensive review prior to granting a five (5) year renewal of the charter. The local board of school directors shall have ongoing access to the records and facilities of the charter school to ensure that the charter school is in compliance with its charter and this act and that requirements for testing, civil rights and student health and safety are being met.

(b) In order to facilitate the local board's review and secretary's report, each charter school shall submit an annual report not later than August 1 of each year to the local board of school directors and to the secretary in the form prescribed by the secretary.

24 P.S. § 17-1748-A(a) and (b).

Although a Chartering School District must annually assess the charter school to determine whether it is meeting the goals of its charter and is in compliance with its charter and the CSL, the Department previously has taken the position that under FERPA, the Chartering School District does not have the authority, without written parental consent, to obtain the education records of individual students enrolled in the charter school. As stated above, a charter school is an independent public school and is the LEA responsible for the education of the students

enrolled in the charter school. Thus, it has been the Department's position that the Chartering School District does not have any authority under FERPA to access the education records of charter school students without prior written parental consent.

Every public school in Pennsylvania, including charter schools, must administer State assessments in particular grades and in particular subjects. The test materials of individual students are sent to the Data Recognition Corporation (DRC), a contractor of the Department, and DRC subsequently provides each school with the test results for each individual student within that school. The data provided to each school includes the student's name, state-issued identification number and test scores.

A Chartering School District has asked the Department to allow it to receive the test scores of students enrolled in charter schools to which the Chartering School District has granted charters. The data requested would include each student's name, state-issued identification number and test scores. The justification presented by the Chartering School District for receiving this personally identifiable information (PII) is so that it can assess the academic performance of the charter schools to which it has granted charters, assess charter school performance among all the charter schools, and compare the academic performance of the charter schools to the Chartering School District's schools. The Chartering School District also argues that it needs this PII to make informed decisions about the renewal, nonrenewal, revocation, or modification of the charter schools' charters.

Although the Chartering School District is to annually assess the charter schools and is to have ongoing access to charter school records, the Department historically has taken the position that this does not include access to PII from individual student education records. Instead, the Department's position has been that in order to assess and review the academic performance of the charter schools, the Chartering School District only needs aggregate data to determine how the charter schools are performing and can use aggregate data to assess performance among charter schools and to compare performance with the Chartering School District's schools. Likewise, the Chartering School District also can use aggregate data to make informed decisions about the renewal, nonrenewal, revocation, or modification of the charter schools' charters.

The Chartering School District has identified the following three sections of FERPA regulations that it believes authorize it to receive PII of charter school students: (1) 34 CFR § 99.31(a)(1)(i)(A); (2) 34 CFR § 99.31(a)(3); and (3) 34 CFR § 99.31(a)(6). However, as set forth below, the Department has not agreed with the Chartering School District's analysis of these sections.

As stated above, each charter school is an independent public school and is the LEA responsible for the education of the students enrolled in the charter school. While it is clear that the Chartering School District has general oversight responsibilities to determine if each charter school is complying with the terms of its charter and the CSL, it has been the Department's position that such oversight does not require, or authorize, receipt by the Chartering School District of individual test scores of charter school students. Below, we set forth how the Department has analyzed the provisions cited by the Chartering School District.

First, Section 99.31(a)(1)(i)(A) allows an educational agency or institution to disclose PII without written parental consent to “other school officials, including teachers, *within the agency or institution* whom the agency or institution has determined to have legitimate educational interests.” (Emphasis supplied.) As an educational institution subject to FERPA, a charter school determines who within the charter school has legitimate educational interests in the PII of its students. This does not authorize a charter school to disclose PII of its students to the Chartering School District without prior written parental consent. In short, the provision applies internally to the charter school’s personnel, not to any individuals or entities outside the charter school. Moreover, there appears to the Department to be no legitimate educational purpose for the Chartering School District to receive individual test scores of charter school students, because it can use aggregate test scores to assess the performance of the charter schools. Although the Chartering School District has taken the position that this provision applies, we do not understand how it could because the provision expressly applies only to personnel within a charter school.

Second, Section 99(a)(3) authorizes disclosure of PII to authorized representatives of state and local educational authorities to “audit or evaluate Federal or State supported educational programs or for the enforcement of or compliance with Federal legal requirements that relate to those programs.” Under this provision, the Department’s understanding is that, in order for this exception to apply, the Department would be required to (1) specifically identify the Chartering School District as its authorized representative; (2) execute a detailed written agreement between the Department and the Chartering School District explicitly describing the audit and evaluation activity; and (3) memorialize that such activity falls within the exception of section 99.31(a)(3). The Chartering School District has taken the position that it needs individual test scores to perform its annual assessment of the charter schools, including whether the charter schools are in compliance with their charters and the CSL and whether the requirements for testing, civil rights and student health and safety requirements are being met. The Department does not believe that obtaining individual student test scores of charter school students by the Chartering School District falls within this exception, because the Department’s position is that individual test scores are not necessary for the Chartering School District to assess the academic performance of each charter school. Rather, it is the Department’s position that aggregate test score data can provide the Chartering School District with the information necessary for it to assess a charter school’s academic performance. Thus, obtaining individual test scores would not be for the purpose of “auditing or evaluating” Federal or State supported educational programs.

Finally, Section 99.31(a)(6) authorizes educational institutions to disclose data to organizations conducting studies for, or on behalf of, the educational institution to: (1) develop, validate, or administer predictive tests; (2) administer student aid programs; or (3) improve instruction. This “studies and research” section does not authorize disclosure of individual student test scores to a Chartering School District. The Chartering School District is not seeking individual student test scores of charter school students to develop, validate, or administer predictive tests for charter school students or for administering student aid programs for such students. In addition, the Chartering School District is not seeking individual student test scores to improve instruction for charter school students while they are in that charter school, because-- as a matter of Pennsylvania law -- the instruction provided to charter school students and any needed improvements in instruction are the responsibility of each charter school. The Chartering School

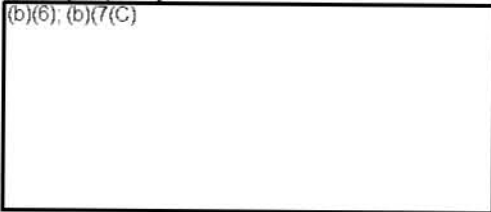
District has taken the position that it needs the individual test scores to assess performance among charter schools and in comparison to the Chartering School District's schools. However, as stated above, the Department's position is that such comparisons can be made using aggregate data; and individual test scores are not necessary for this purpose.

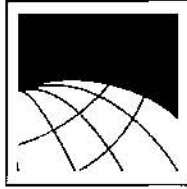
Although the Chartering School District has oversight responsibilities to ensure that charter schools are complying with their charters and with the CSL, for all of the reasons set forth above, the Department has taken the position that FERPA does not authorize the Chartering School District to receive individual student test scores of charter school students.

Any guidance you could provide on this matter would be greatly appreciated by the Department. If you need any further information, please feel free to contact me.

Sincerely,

(b)(6), (b)(7)(C)

A rectangular box with a black border, used to redact the signature of the sender. The text "(b)(6), (b)(7)(C)" is written in the top-left corner of the box.



# Prince William County

PUBLIC SCHOOLS

*Providing A World-Class Education*

November 13, 2013

Ellen Campbell, Acting Director  
Family Policy Compliance Office  
United States Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

NOV 18 2013

RE: Prince William County Public Schools  
Notice of Inadvertent Exposure of  
Student Information Under FERPA

Dear Ms. Campbell:

On behalf of Prince William County Public Schools (PWCS), I am providing the United States Department of Education with notice of a recent incident involving the possible inadvertent exposure to the general public of certain personal information pertaining to a number of identifiable students of the School Division.

Specifically, on Friday, November 8, 2013, it was confirmed by staff at (b)(6); (b)(7)(C) School that the contents of an employee's backpack were stolen from the school playground. The backpack contained FERPA-protected information relating to specific students who attend (b)(6); (b)(7)(C) School. Student information including names, dates of birth, addresses, photos, and phone numbers, associated with specific students are contained on emergency cards that disappeared from an employee's backpack. This information is contained on cards routinely taken outdoors with classes to be accessible in the event of an emergency. Though the backpack containing the cards was found, the emergency information remains missing.

PWCS recognizes that this incident, even though inadvertent, could constitute a violation of the Family Educational Rights and Privacy Act (FERPA) and the School Division's own policies and regulations. Although we have been unable to locate any legal requirement that such violations be reported to the United States Department of Education, PWCS nevertheless felt it should bring the matter to your attention.

Though the statutory language of FERPA and its implementing regulations also do not address the issue of parental notice for this type of situation, the Division has sent a copy of the enclosed letter to the parent/guardian of each student whose personal information may have been comprised. Parents who seek specific details of the information released may obtain that information by contacting staff at (b)(6); (b)(7)(C) School. The School Division has deliberately not released the specific details of the compromised data to the public in an effort to protect the security and privacy of all students affected, and will require identifying information before responding to parental/guardian requests for individualized information.

JAMES E. FAGAN, III  
Division Counsel