



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

DEC 6 2010

(b)(6)

Dear (b)(6)

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

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

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

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

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

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

(b)(6)

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

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

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

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

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

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

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

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

Sincerely

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

DEC 6 2010

(b)(6)

Dear

(b)(6)

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

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

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

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

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

Sincerely,

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure



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

DEC 6 2010

(b)(6)

Dear (b)(6)

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

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

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

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

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

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

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

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

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

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

Sincerely

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure



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

DEC 8 2010

(b)(6)

Dear (b)(6)

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

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

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

Page 2 (b)(6)

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

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

Sincerely,

(b)(6)

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure



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

DEC 9 2010

(b)(6)

Dear (b)(6)

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

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

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

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

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

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

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

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

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

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

Sincerely

(b)(6)

/ Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure



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

DEC 9 2010

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

Dear Mr. Giddens:

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

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

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

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

Sincerely,

(b)(6)

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

Enclosure

DEC 9 2010

(b)(6)

Dear

(b)(6)

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

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

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

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

Sincerely,

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

Enclosure



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

DEC 10 2010

(b)(6)

Dear

(b)(6)

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

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

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

Sincerely,

(b)(6)

/ Bernard Cieplak /
Program Analyst
Family Policy Compliance Office

Enclosure



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

(b)(6)

DEC 14 2010

Dear

(b)(6)

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely

(b)(6)

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosures

DEC 14 2010

(b)(6)

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

Dear (b)(6)

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

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

cc: Mr. Chris Sonju, Superintendent

DEC 15 2010

(b)(6)

Dear

(b)(6)

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

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

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

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

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

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

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

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

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

This Office investigates those timely complaints that contain specific allegations of fact giving reasonable cause to believe that a school has failed to comply with FERPA. A timely complaint is defined as one that is submitted to this office within 180 days of the date that the complainant knew or reasonably should have known of the alleged failure to comply with FERPA. Allegations that the District violated FERPA prior to September 2, 2009, are untimely based on the date this office received your original March 1, 2010, letter to this office. Accordingly, this office will not take any further action in response to statements which relate to your exhibits A – C and E.

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

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

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure

DEC 15 2010

(b)(6)

Dear

(b)(6)

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

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

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

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

Page 2 – (b)(6)

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

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

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

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

DEC 15 2010

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

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

Dear Mr. Pratt-Dannals:

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

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

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

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

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

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

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

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

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

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

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure

cc: Parent

DEC 15 2010

(b)(6)

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

Dear (b)(6)

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

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

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure

(b)(6)

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure



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

DEC 14 2010

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

Dear Senator Johnson:

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

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

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

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

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

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

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

Sincerely,

(b)(6)

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure

DEC 20 2010

(b)(6)

Dear

(b)(6)

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

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

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

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

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

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

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosures