



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

(b)(6)

SEP 3 2010

Dear (b)(6)

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

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

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

Sincerely,

(b)(6)

Ricky C. Norment
Program Specialist
Family Policy Compliance Office

Enclosure



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

SEP 9 2010

(b)(6)

Dear (b)(6)

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

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

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

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

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

Sincerely,

(b)(6)

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure

(b)(6)

SEP 9 2010

Dear (b)(6)

This is to respond to your November 8, 2009, complaint form to this Office in which you allege that (b)(6) (School) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR Part 99.

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

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

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

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

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

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

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

(b)(6)

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

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

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

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

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

In order to exercise your rights under FERPA, I suggest you write to the School and request the specific education records to which you are seeking access. If the school does not provide you with the requested access or fails to contact you within 45 days, you may contact this office. At such time you should provide us with a dated copy of your request to the School, any response from the School, and a completed copy of the complaint form. We will review the information you submit and take any appropriate action.

Page 3 -

(b)(6)

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

Sincerely,

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosures



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

(b)(6)

SEP 10 2010

Dear (b)(6)

This is to respond to your November 8, 2009, complaint form to this Office in which you inquire whether (b)(6) (School) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR Part 99.

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

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

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

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

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

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

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

(b)(6)

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

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

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

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

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

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

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

Sincerely,

(b)(6)

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosures



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

(b)(6)

SEP 10 2010

Dear (b)(6):

We are writing to inform you that the Family Policy Compliance Office (FPCO or this Office) is not initiating an investigation with regard to a complaint you filed with us on February 9, 2010. In that complaint, you alleged that the (b)(6) (University) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

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

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

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

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

(b)(6)

In this case, we will not open an investigation into your complaint because it does not provide specific allegations of fact which give the Office reasonable cause to believe that a FERPA violation occurred. In order for the Office to initiate an investigation, a complaint must contain such specific allegations. If you wish this Office to further consider your allegation, we need to receive additional information from you.

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

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

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

The provisions of 34 CFR Part 99, Subpart B, detail the right of inspection and review of education records. Generally, FERPA requires that educational agencies and institutions provide parents or eligible students access to education records within a reasonable period of time, but not more than 45 days after the request.

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

(b)(6)

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

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

Sincerely,

(b)(6)

Ricky C. Norment
Program Analyst
Family Policy Compliance Office



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

(b)(6)

SEP 15 2010

Dear (b)(6)

We are writing to inform you that the Family Policy Compliance Office (FPCO or this Office) is not initiating an investigation with regard to a complaint you filed with us on December 29, 2009. In that complaint, it appears you are alleging that (b)(6) (School) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

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

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

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

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

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

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

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

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

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

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

Sincerely,

(b)(6)

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure



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

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

SEP 15 2010

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

Dear Mr. Welch:

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

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

Sincerely,

(b)(6)

Ellen Campbell
Director
Family Policy Compliance Office

cc: Parent



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

(b)(6)

SEP 16 2010

Dear (b)(6)

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

FERPA is a Federal law that gives custodial and noncustodial parents alike the right to have an opportunity to inspect and review their children's education records, unless there is a court order or State law that specifically provides to the contrary. The school may ask for legal certification denoting parenthood, such as a court order or birth certificate, from the parent requesting access to education records. The term "education records" is defined as those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution.

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

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

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

(b)(6)

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

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

Sincerely,

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosures

Page 2— (b)(6)

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

Sincerely

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure



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

SEP 17 2010

(b)(6)

Dear

(b)(6)

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

Sincerely,

(b)(6)

Ellen Campbell
Acting Director
Family Policy Compliance Office

cc: Margo Olson
Director of Special Education



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

SEP 20 2010

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

This letter is in response to the correspondence you sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO). FPCO administers the Family Educational Rights and Privacy Act (FERPA), which affords parents and eligible students certain rights with regard to education records. Unfortunately, due to staff limitations and resources, we are unable to review the quantity of materials you provided. Thus, we are returning the documentation to you.

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

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

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

(b)(6)

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

Thank you for contacting us about this matter.

Sincerely

(b)(6)

Dann Brittenham
Management and Program Analyst
Family Policy Compliance Office

Enclosure



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

(b)(6)

SEP 24 2010

Dear (b)(6)

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

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

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

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

I trust this information is helpful to you.

Sincerely,

(b)(6)

Ellen Campbell
Acting Director
Family Policy Compliance Office



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

(b)(6)

SEP 24 2010

Dear (b)(6)

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

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

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

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

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

Sincerely,

(b)(6)

Ellen Campbell
Acting Director
Family Policy Compliance Office



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

SEP 24 2010

(b)(6)

Dear (b)(6)

This letter is in response to your letter, dated September 20, 2010, that you sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you state that your rights under the Family Educational Rights and Privacy Act (FERPA) were violated when the educational agency or institution that your child attends failed to provide you with copies of your child's education records. You also raise a number of issues relating to your child's special education services and records. FPCO administers FERPA, a Federal law that affords parents and eligible students certain rights with regard to education records.

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

Under FERPA, a school is required to provide a parent with an opportunity to inspect and review the student's education records within 45 days of a request. However, a school is only required to provide copies of education records, or make other arrangements, if a failure to do so would effectively prevent the parent from obtaining access to the records. A case in point would be a situation in which the parent does not live within commuting distance of the school. Please note that, under FERPA, a school is not required to provide a parent's attorney with access (or copies) of the student's education records; rather, the school is only required to provide the parent with an opportunity to inspect and review his or her child's education records.

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

(b)(6)


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

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

If, after a review of the enclosed guidance document you continue to believe your rights have been violated under FERPA, you should follow the directions on page 6 and 7 of the guidance document for filing a complaint. (A complaint form is also enclosed.) We will review the information you submit and take any appropriate action. You may also find more information regarding FERPA on our website at: <http://www2.ed.gov/policy/gen/guid/fpco>.

Sincerely,

(b)(6)

Ellen Campbell 
Acting Director
Family Policy Compliance Office

Enclosures



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

(b)(6)

SEP 2 2010

Dear (b)(6)

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

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

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

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

Sincerely

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure