

(b)(6)

AUG 11 2010

Dear (b)(6)

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

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

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

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

I trust that the above information is helpful to you.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

(b)(6)

AUG 11 2010

Dear (b)(6):

This is to respond to your March 11, 2010, faxed correspondence to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the (b)(6) (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. Specifically, you state that a teacher at the District violated FERPA when she stated to a third party that “[she] destroyed your [son’s] innocence long ago and because of it none of [his siblings] took [the Advance Placement English Literature course].” FPCO administers FERPA, which affords parents and eligible students certain rights pertaining to education records.

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

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

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

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

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure

(b)(6)

**AUG 11 2010**

Dear (b)(6)

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

FERPA is a Federal law that gives parents the right to inspect and review their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is defined as those records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a guidance document and complaint form.

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

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

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

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures

(b)(6)

AUG 11 2010

Dear Ms. Yano:

This is to respond to your March 7 and June 2, 2010, letters sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the (b)(6) (College) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. FPCO administers FERPA, which affords parents and eligible students certain rights pertaining to education records.

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

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

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

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

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

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

**FERPA's disclosure provision.** The school improperly disclosed information from your child's or your education records.

(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):

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

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

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

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

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

Sincerely,

Kathleen M. Wolan  
Program Analyst  
Family Policy Compliance Office

Enclosure

AUG 06 2010

Ms. Jennifer Bell-Ellwanger  
Executive Director/Senior Advisor to the Chancellor  
Research Policy and Support Group  
New York City Department of Education  
52 Chambers Street, Room 320  
New York, New York 10007

Dear Ms. Bell-Ellwanger:

This letter is in follow-up to the telephone conversation that General Counsel Michael Best, you, and other New York City Department of Education (District) officials had with officials here at the Department of Education (Department), including General Counsel Charlie Rose, on Friday, July 30, 2010, regarding the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232g; 34 CFR Part 99. Specifically, the District has concerns about potential misuse of information in education records, and we discussed whether the District could limit disclosure of "directory information" under FERPA to address those concerns, while at the same time permitting the District to participate in the Department's Free Application for Federal Student Aid (FAFSA) Completion Project.

As you know, FERPA generally prohibits the nonconsensual disclosure of information derived from education records, except in certain specified circumstances. 20 U.S.C. § 1232g(b); 34 CFR §§ 99.30 and 99.31. One of these exceptions permits the nonconsensual disclosure of information derived from education records that has been appropriately designated as "directory information" by the educational agency or institution. 20 U.S.C. § 1232g(b)(1); 34 CFR § 99.31(a)(11). FERPA defines "directory information" as information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. 20 U.S.C. § 1232g(a)(5)(A); 34 CFR § 99.3 "Directory information." Directory information could include the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors and awards received; and the most recent educational agency or institution attended.

FERPA provides that a school may disclose directory information if it has given public notice of the types of information which it has designated as "directory information," the parent's right to restrict the disclosure of such information, and the period of time within which a parent has to notify the school in writing that he or she does not want any or all of those types of information designated as "directory information." 20 U.S.C. § 1232g(a)(5)(B); 34 CFR § 99.37(a). A school is not required to inform former students or the parents of former students regarding directory information or to honor their request that directory information not be disclosed without consent.

34 CFR § 99.37(b). However, if a parent or eligible student, within the specified time period during the student's last opportunity as a student in attendance, requested that directory information not be disclosed, the school must honor that request until otherwise notified.

In our phone conference, District officials asked whether the District may specify in its notice the specific parties who may receive directory information, and/or the specific purposes for which the directory information may be disclosed – e.g., whether it would be acceptable for the District to limit its disclosure of students' names, addresses, and dates of birth, directory information items, to the Department for the FAFSA Completion Project. We advised you that specifying recipients and purposes regarding disclosure of directory information is an acceptable option. While FERPA permits the District to disclose directory information about former students without complying with the public notification and opt-out provisions, we encourage you to make a good faith effort to reach former students with the notification and to accept any opt-outs that you may receive from them. We also discussed that you may want to include in the notice that directory information will also be used for the disclosure of information for inclusion in yearbooks, graduation, sports and other programs, as well as announcements concerning students who receive honors and awards. Generally, the directory information items that should be designated for these disclosure purposes are: name, photograph, grade level, participation in officially recognized activities and sports, weight and height of members of athletic teams, and honors and awards.

While we do not know how New York's open records law may be applied to a limited directory information disclosure policy, our office (the Family Policy Compliance Office (FPCO)) will enforce the District's policy under FERPA with regard to any disclosures that are inconsistent with your policy. That means, if the District elects to implement a policy of disclosing directory information only to certain parties, schools in the District must limit their disclosure of directory information to only those particular parties. FPCO will investigate the District if it becomes evident that it or one of its schools discloses directory information to any party or purpose that is not listed in the notice to parents and students.

In our conversation, Mr. Best also mentioned disclosures under the military recruiter requirements of the Elementary and Secondary Act (ESEA), which FPCO also administers. He indicated that the District has been working to minimize any privacy concerns in that regard, while still complying with the ESEA requirements. Section 9528 of the ESEA, 20 U.S.C. § 7908, as amended, as well as § 503(c) of 10 U.S.C. § 503, as amended, require local educational agencies (LEAs) to: (1) give military recruiters the same access to secondary school students as provided to postsecondary institutions or to prospective employers; and, (2) provide students' names, addresses, and telephone listings to military recruiters, when requested, unless a parent has opted out of providing such information.

Please note that, should the District not wish to combine its directory information notice with the notice to parents concerning the disclosure of students' names, addresses, and telephone listings to military recruiters, it is not required to do so. While we explained in the 2002 military

recruiter guidance that an LEA *may* issue a single notice to take care of notifying parents and students about the designation of directory information under FERPA and the disclosure of the required items for military recruiters, it is not required to do so. For example, should an LEA not have a directory information policy or prefer not to designate address and/or telephone listings as directory information, it may issue a notice to parents and students concerning only the disclosure of these items to military recruiters under the ESEA requirements. That way, the information can only be provided to military recruiters and not be treated as directory information under FERPA to be provided to other parties. Here is a web link to the 2002 guidance: <http://www2.ed.gov/policy/gen/guid/fpco/hottopics/ht10-09-02.html>.

I trust that this summary adequately reflects our discussion on July 30<sup>th</sup>. Should you or any other District official need assistance regarding FERPA in general or this matter in particular, please do not hesitate to contact us at (202) 260-3887 or [FERPA@ED.Gov](mailto:FERPA@ED.Gov). You may also write to us at the following address:

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

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office



AUG 06 2010

(b)(6)

Dear

(b)(6)

This letter is in response to your June 7, 2010, letter 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. Based on the information you provided to this office, you have not provided sufficient information for this office to determine if there has been a violation of your rights under FERPA. Please note this office does not administer California law and, thus, we will not further address statements you made in this regard.

You allege that certain school officials in the (b)(6) (District) disclosed unspecified information from your child's education records to a corporate "employee psychologist" at which the student's mother is also employed. From the information you provided this office, it appears that the mother of the student may have consented to the school's disclosure of your child's education records to this third party. Please verify whether the student's mother provided her consent for such disclosure to this third party. If this is not the case, provide this office with a signed written statement from the student's mother to verify that she did not consent for the school to disclose information from your child's education records to the third party. Also, you should specify the information from your child's education records that was disclosed by the District to this third party. Please help us assist you by outlining the relevant facts clearly and succinctly, and by providing the needed information to this office within 3 weeks of receiving this response. We will review the information you submit and take any appropriate action.

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

(b)(6)

**AUG 05 2010**

Dear (b)(6)

This is to respond to your February 25, 2010, letter sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the (b)(6) School 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,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure

AUG 05 2010

(b)(6)

Dear (b)(6)

This is to respond to your July 22, 2010, letter sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the (b)(6) (University) 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,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

(b)(6)

**AUG 05 2010**

Dear

(b)(6)

This is to respond to your July 29, 2010, letter sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the (b)(6) District (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.

  X   **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.

(b)(6)

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,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

(b)(6)

**AUG 03 2010**

Dear

(b)(6)

This is in response to your May 20, 2010, fax to this Office in which you express concerns related to your child's education records. This Office administers the Family Educational Rights and Privacy Act (FERPA), which addresses issues that pertain to education records.

FERPA is a Federal law that gives parents the right to inspect and review their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is defined as those records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a guidance document and complaint form.

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

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

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

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures



(b)(6)

AUG 03 2010

Dear

(b)(6)

This is in response to your May 20, 2010, fax to this Office in which you express concerns related to your child's education records. This Office administers the Family Educational Rights and Privacy Act (FERPA), which addresses issues that pertain to education records.

FERPA is a Federal law that gives parents the right to inspect and review their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is defined as those records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a guidance document and complaint form.

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

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

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

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures

AUG 02 2010

(b)(6)

Dear

(b)(6)

This letter is in response to your June 4, 2009, letter 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. 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 children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is defined as those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed is a copy of the FERPA guidance document for parents.

FERPA generally prohibits a school from disclosing a student's education records to third parties unless the parent of the student to whom the records relate provides written consent. As stated above, FERPA protects information contained in education records. FERPA does not protect the confidentiality of information in general and, therefore, does not apply to the disclosure of information derived from a source other than education records, even if education records exist which contain that information. As a general rule, information that is obtained through personal knowledge or observation, and not from an education record, is not protected from disclosure under FERPA.

Based on the information you provided to this office relating to an alleged disclosure from your child's education records which occurred on December 9, 2008, it is not clear whether any information disclosed by (b)(6) came from your child's education records or whether any education records about your child having any special needs existed on that date. In response to your allegation that on May 5, 2009, information from your child's education records may have been disclosed because your child overheard conversations by teachers speaking about her, you have not provided any evidence that your child's education records were disclosed to anyone other than your child. Because there is no evidence that your child's education records was disclosed to anyone other than your daughter, no basis exists for this Office to investigate your allegation that your child's school violated your rights under FERPA.

Page 2

(b)(6)

I trust this information is helpful to explain the scope and limitations of FERPA as it relates to your inquiry.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure

(b)(6)

**AUG 17 2010**

Dear (b)(6)

We are writing to inform you that the Family Policy Compliance Office (FPCO) is not initiating an investigation with regard to a complaint you filed with us on July 14, 2010. In that complaint you alleged that the (b)(6) School) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

FPCO 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>. Enclosed is a guidance document for your review.

FPCO’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 meet the FERPA timeliness requirement described in (b), above. Your correspondence states that you were aware of the alleged disclosure on August 18, 2009. In order to be considered timely, your complaint should have reached FPCO no later than 180 days after August 18, 2009. Instead, FPCO did not receive your complaint until July 27, 2010, which was almost one year after you became aware of the alleged disclosure. (34 CFR § 99.64).

If you have questions regarding this matter, you may contact me. The name, address, and telephone number of the office are:

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

Sincerely,

Kathleen M. Wolan  
Program Analyst  
Family Policy Compliance Office

Enclosure

(b)(6)

AUG 16 2010

Dear

(b)(6)

This is to respond to your May 24, 2010, letter/complaint form sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the (b)(6) (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. Your son (b)(6) (Student) attends school in the District. 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.

(b)(6)

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.

Each of the five allegations in your letter are addressed below.

1. Failure to adhere to District's own Board Policy regarding Parental Challenge of student records.

Please see the part of the guidance document regarding "Amendment of Education Records" on page two. FERPA generally requires a school to meet the procedures summarized in the guidance document. In order to exercise your right to seek to amend inaccurately recorded information in the Student's education records, you should write to the appropriate official in the District and request amendment of the inaccurately recorded information. Along with your request, you should provide the District with evidence to support your belief that such information is inaccurately recorded. Please note that the District is not required by FERPA to respond to a request by a parent to amend information (such as a grade or substantive decision made by a school) that is not amendable under FERPA.

If the school does not amend the inaccurately recorded information as requested, or fails to get back to you within a reasonable period of time, you may contact this Office. At such time, please provide us with a dated copy of your request to the school (including your supporting evidence), any response from the school, and a completed copy of the enclosed complaint form.

(b)(6)

2. Failure to inform Parents of the destruction of testing protocols that were being challenged by parent at time of destruction.

A test protocol is not generally an education record unless it includes the student's name or other personally identifying information and the student's answers to the questions in the test protocol. Also, a school may destroy education records without notice to the parent unless there is an outstanding request by the parent to inspect and review such records. Unless you requested an opportunity to inspect and review a test protocol that was also the Student's education record, and the District destroyed the test protocol/education record before it provided you an opportunity to inspect and review it, it does not appear that a violation of FERPA occurred.

3. Failure to resolve matters of the challenge of invalid assessments.

It is not completely clear what you mean by this allegation. As you may know, there are some additional requirements under Part B of the Individuals with Disabilities Education Act (Part B) for the education records of students who receive special education services. I have included contact information for the organization responsible for administering Part B in your State in case you wish to contact them to see if this concern is addressed by Part B.

4. Failure to remove, acknowledge or respond to parental challenge of student records.

It appears that this allegation is related to your allegation in number two above. Please see our response for allegation number two.

5. Failure to include all records upon previous records requests at the time of request.

Please see the part of the guidance document regarding "Access to Education Records" beginning on page one. Based on the information in your letter, it appears that this concern may have been addressed by the (b)(6) Department of Education in 2009. However, if you believe there are additional education records to which you have not been provided access, I suggest you write again to the District and request an opportunity to inspect and review the education records to which you are still seeking access.

If the District fails to provide you an opportunity to inspect and review the requested education records, or fails to contact you within 45 days of your request, you may write to this Office again. At such time, please provide us with a dated copy of your request to the District, any response from the District, and a completed copy of the enclosed complaint form.

6. District divulged my son's name (who is a minor), our family's first and last name to the public and the nature of our complaint of special education concerns in the minutes of the School Board Meeting . . . When I [G]oogle the (b)(6) School District, (b)(6) [Student's



Page 4 -

(b)(6)

name]” his name and information is disclosed to everyone and anyone. Our request for the removal of this information was ignored by the District.

You provided us with a copy of information that apparently appears at the District’s Website regarding the school board meeting. Please see the part of the guidance document regarding “directory information” beginning near the bottom of page three. Based on our analysis, unless you opted out of directory information, it does not appear that any information from the Student’s education records is disclosed at the Website. However, if you believe differently, please provide us with the specific information from the Student’s education records that you believe is improperly disclosed at the Website. We will review the information you submit and take any appropriate action.

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

Sincerely,

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

Enclosures

Mr. Gary L. Adkins  
Superintendent  
Wayne County Schools  
212 North Court Street  
Wayne, West Virginia 25570

**AUG 17 2010**

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

Dear Mr. Adkins:

(b)(6) (Parent) has filed a complaint with the U.S. Department of Education alleging that Wayne County Schools (District) violated rights afforded parents under 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 procedures outlined in § 99.65. The section states in summary:

- The Office will notify 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 shall include the substance of the alleged violation and shall ask the agency or institution to submit a written response to the complaint.

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

The Parent alleges that the District failed to comply with § 99.10 of the FERPA regulations when it did not provide her access to the education records of her son, (b)(6) (Student), in response to several requests. Section 99.10 states in part:

- (a) . . . a parent or eligible student must be given the opportunity to inspect and review the student's education records. . . .
- (b) the educational agency or institution . . . shall comply with a request for access to education records within a reasonable period of time, but not more than 45 days after it has received the request.

Page 2 - Mr. Gary L. Adkins

Specifically, the Parent alleges that the District did not comply with several requests by her for access to all of the Student's education records. The Parent provided this Office with June 8, 2010, requests by her for access to the Student's education records maintained by (b)(6) High School and (b)(6). Enclosed for your review are copies of the Parent's recent requests.

Please note that a school is required by FERPA to provide a noncustodial parent with access to his or her child's education records unless the school has evidence that there is a court order or State law that specifically provides to the contrary. 34 CFR § 99.10. Also, a school is required to provide the noncustodial parent with 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 noncustodial parent does not live within commuting distance of the student's school. Based on the information provided by the Parent, she lives outside commuting distance of the Student's school.

To complete the procedure outlined in § 99.65(a)(2) of the FERPA regulations, please investigate the Parent's allegation and provide this Office with a written response within four weeks after you receive this letter. Also, please refer to complaint number 1461 in any correspondence regarding this complaint. If you have any questions concerning the Act, the Department's role in its administration, or the complaint procedure, you may contact Mr. Ricky Norment of my staff. The address and phone number of this Office are as follows:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-5920  
202-260-3887

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures

cc: Parent

(b)(6)

AUG 19 2010

Dear (b)(6)

This is in response to your October 22, 2009, letter in which you allege that (b)(6) College violated your rights under the Family Educational Rights and Privacy Act (FERPA) when it denied you access to your education records. This Office administers FERPA, which addresses issues that pertain to education records. Because of a backlog of correspondence, we have not been able to address the concerns raised in your letter. I apologize for any inconvenience this may have caused you.

FERPA is a Federal law that gives 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. Once a student turns 18 years of age or attends a postsecondary institution, he or she becomes an eligible student and all rights under FERPA transfer from the parent to the student. The term "education records" is defined as those records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution.

FERPA requires that schools comply with a student's request for access to his or her education records within 45 days of receipt of the request. Also, a school shall respond to reasonable requests for explanations and interpretations of the records. FERPA does not require schools to create or maintain education records, or to re-create lost or destroyed education records.

You provided a June 24, 2009, request to (b)(6), Dean of Math and Science for the opportunity to inspect and review your Test-5 answer-book for Math-63 Fall 2007 with instructor (b)(6) along with its "question paper." You also asked for scores from various tests and homework. Due to the lapse in time, we are asking you to inform us whether you wish this Office to pursue your complaint or whether your concerns have been resolved. If you wish to pursue your allegation, please inform us of such a decision within 30 days of the date of this letter. Additionally, we need to receive the following information from you:

- 1) By "question paper," do you mean the test questions that go along with your Test-5 answer booklet?
- 2) Were you given access and an explanation? If not, why?

- 3) Can you provide the response of (b)(6) to this request if any was given?
  
- 4) Also, do you know if these two records, including the tests and homework you reference were maintained by the College at the time of your request?

Our address and telephone number are as follows:

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

We will review the information you provide and take any necessary action.

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

(b)(6)

**AUG 19 2010**

Dear (b)(6)

This is to respond to your August 30, 2010, correspondence sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the University of (b)(6) 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/fpco/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.

  X   **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,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosures

(b)(6)

AUG 19 2010

Dear (b)(6)

This is to respond to your March 16, 2010, letter to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that (b)(6) (University) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. Specifically, you provided this office with a copy of a February 23, 2010 email to you from (b)(6) at the University who stated that "she received numerous reports that you were trying to skirt the requirements of the [University's] MES degree" and that rumors regarding your degree requirements have affected the other students. You appear to allege that (b)(6) statements verify that she violated FERPA because the other students to whom she generally refers could only have learned about your concerns regarding the University's degree requirements from her, since you did not discuss such concerns with other students. FPCO administers FERPA, which affords parents and eligible students certain rights pertaining to education records.

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

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

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

Under FERPA, students must provide written consent before personally identifiable information is disclosed from their education records, unless one of the exceptions to this general consent rule applies. However, FERPA does not protect the confidentiality of information in general; rather, FERPA prohibits the improper disclosure of information derived from education records. Therefore, if a school official disclosed information about a student that is a result of the official's personal knowledge, observation, or hearsay, then that information would not be protected under FERPA. You have not provided any evidence for this office to determine that information from your education records was disclosed by any University official. It also appears that any information disclosed was based on opinion and hearsay, not information derived from your education records. Accordingly, there is no basis for this office to investigate your allegation that the University disclosed information about you from your education records.



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

Sincerely,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure

(b)(6)

**AUG 24 2010**

Dear (b)(6)

This is to respond to your August 2, 2010, letter sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the (b)(6) Law School 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,

Bernard Cieplak  
Program Analyst  
Family Policy Compliance Office

Enclosure

AUG 23 2010

Honorable Bernard Sanders  
United States Senator  
1 Church Street, 2<sup>nd</sup> Floor  
Burlington, Vermont 05401

Dear Senator Sanders:

This is in response to your August 10, 2010, letter to this office on behalf of your constituent (b)(6) regarding allegations that she makes against (b)(6) (College) under the Family Educational Rights and Privacy Act (FERPA). This Office administers FERPA which addresses issues pertaining to education records. 20 U.S.C. § 1232g; 34 CFR Part 99.

As you know, FERPA is a Federal law that affords parents and eligible students 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. Under FERPA, "Eligible student" means a student who has reached 18 years of age or is attending an institution of postsecondary education.

FERPA generally requires prior written consent for the disclosure of personally identifiable information, from education records, except in certain limited circumstances specified by statute. One of the exceptions to the prior written consent provision permits a school to disclose education records to officials of another school where the student seeks or intends to enroll. A school that discloses education records under this provision must make a reasonable attempt to notify the student of the disclosure, unless the disclosure is initiated by the eligible student, or the school's annual notification of rights under FERPA includes a notice that it forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll. Your constituent explains that two professors at the College may have learned of her previous history at the prior school where she was enrolled. As noted above, at the time (b)(6) transferred to the College, her records from her previous school may have been forwarded to the College under this exception in compliance with FERPA.

Another exception to the prior written consent requirement in FERPA allows "school officials, including teachers, within the agency or institution" to obtain access to education records provided the educational agency or institution has determined that they have "legitimate educational interests" in the information. 34 CFR § 99.31(a)(1). Although "school official" is not defined in the statute or regulations, this Office has interpreted the term broadly to include a teacher; school principal; president; chancellor; board member; trustee; registrar; counselor; admissions officer; attorney; accountant; human resources professional; information systems specialist; and support or clerical personnel.

Section 99.7(a)(3)(iii) of the FERPA regulations requires an educational agency or institution to include in its annual notification of rights under FERPA a statement indicating whether it has a policy of disclosing personally identifiable information under § 99.31(a)(1), and, if so, a specification of the criteria for determining which parties are school officials and what the agency or institution considers to be a legitimate educational interest. See online – Post secondary model notification: <http://www.ed.gov/policy/gen/guid/fpco/ferpa/ps-officials.html> Because the two professors in question are currently teaching (b)(6) it appears that they meet the exception under FERPA that permits school officials with legitimate educational interest to access her education records in compliance with FERPA. Finally, FERPA prohibits the improper disclosure of information derived from education records. Therefore, information that is based on opinion or hearsay and not specifically contained in education records would not be protected under FERPA.

We are enclosing for your constituent a FERPA guidance document, and complaint form. If, after reviewing these documents, she continues to believe the College failed to comply with the requirements of FERPA, she may complete the complaint form and return it to this Office. We will review the information she provides and take any appropriate action.

Should you or your staff have any additional questions in regard to this matter or questions about the administration of FERPA, you may contact us directly at:

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

Sincerely,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosures



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

(b)(6)

AUG 31 2010

Dear (b)(6)

This is to respond to your recent complaint form sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the (b)(6) (b)(6) (College) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. FPCO administers FERPA, which affords parents and eligible students certain rights pertaining to education records.

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

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

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

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

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

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

- 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,

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

Enclosure



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

AUG 31 2010

(b)(6)

Dear (b)(6)

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

FERPA is a Federal law that gives parents the right to inspect and review their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is defined as those records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a guidance document and complaint form.

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

Mr. Fred Balcom  
Director  
California Department of Education  
Special Education Division  
1430 N Street  
Suite 2401  
Sacramento, California 95814

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

Sincerely

(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)

AUG 31 2010

Dear (b)(6)

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

FERPA is a Federal law that gives parents the right to inspect and review their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is defined as those records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a guidance document and complaint form.

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

John Tommasini  
Director  
Pennsylvania Department of Education  
Bureau of Special Education  
333 Market Street  
7th Floor  
Harrisburg, PA 17126-0333

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

Sincerely,

(b)(6)

Ellen Campbell  
Acting Director  
Family Policy Compliance Office

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