



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

NOV 03 2010

(b)(6)

Dear

(b)(6)

This is in response to your faxed letter that we received on October 18, 2010, regarding the Family Educational Rights and Privacy Act (FERPA). You allege that (b)(6) Academy, which appears to be a private school, violated your rights under FERPA.

FERPA applies to educational agencies and institutions that receive Federal funds from programs administered by the U.S. Department of Education (Department). Because private and parochial schools at the elementary and secondary levels do not generally receive funds (grants, subgrants, or cooperative agreements) from the Department, FERPA does not apply to these schools. A private school that has students and teachers who receive services from a local or state education agency funded by a Departmental program does not bring the school under the coverage of FERPA.

Please note that, even if the school were subject to FERPA, it would only be required to provide you with access, within 45 days, to your child's education records, a school is not required to provide information that is not maintained or to create education 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 appointments with school officials; such decisions are made at the discretion of the school.

Enclosed for your information is a fact sheet on FERPA. For information on the requirements, visit the Department's FERPA web site at:
<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.

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

Sincerely,

(b)(6)

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure



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

NOV 04 2010

(b)(6)

Dear

(b)(6)

This is to respond to your May 5 and July 30, 2010, letters to this office in which you allege that rights afforded you under the Family Educational Rights and Privacy Act (FERPA) were violated by (b)(6) (University) when it denied you access to your education records. This office administers FERPA, which addresses issues pertaining to education records.

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

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

On September 7, 2010, I spoke with (b)(6) University associate counsel, via telephone who stated that the University complied with your February 24, 2010, request for access when it offered you the opportunity to inspect and review your education records. She confirmed this in her April 9, 2010, response to you, which you provided to this office. Furthermore, she confirmed that you commuted to the University at the time of your request.

This office must determine whether a school has a policy or practice that has the effect of preventing access to education records under FERPA. Specifically, you alleged that the University violated your rights under FERPA when it failed to provide you copies, because you reside outside of commuting distance to the school. However, the University substantiated that you commuted to the campus and asserted that it would be reasonable for you to inspect and review your records, as it offered you in its April 9 response, at such time when you were at the campus. Accordingly, we cannot conclude that the University has a policy or practice that has the effect of preventing you access to your education records in violation of FERPA. Based on this information and information you provided, the University complied with FERPA when it

Page 2—Ms. Marita E. Hyman

provided you with an opportunity to inspect and review your education records, although it would have been permitted, not required, to provide you with copies. Should you wish to inspect and review your education records, you should make appropriate arrangements with the University.

I trust this addresses your concerns as they relate to the scope and limitations of FERPA.

Sincerely,

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure



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

NOV 04 2010

(b)(6)

Dear (b)(6)

This is to respond to your October 12, 2010, correspondence to this office in which you allege that the (b)(6) District violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). This office administers FERPA, which addresses issues pertaining to education records.

This office responded to your March 1, 2010, letter on July 15, 2010, in which we requested that you complete the provided complaint form and include only relevant back-up documentation that supports your allegation (see enclosed). In your October 12, 2010, response you have not provided this office with a completed complaint form, which clearly specifies your allegation. Furthermore, it appears you have expanded your inquiry to include other allegations and information not included in your original March 2010 correspondence. Again, we are returning your correspondence on in order that you may use it to resubmit your complaint.

Please refer to our July 2010 response for further information and carefully read and complete the enclosed complaint form. Also, please provide only relevant documentation which supports your specific allegation. In order for this office to proceed, you should provide this office with the necessary information within 2 weeks after you receive this response. Once you resubmit only your completed complaint form and only relevant documentation which supports your allegation in a succinct and clear manner, this office will provide you with a response as soon as possible. Otherwise, this office will be unable to assist you further in regard to your current allegation.

Sincerely,

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosures



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

NOV 04 2010

(b)(6)

Dear (b)(6)

This is to respond to your September 4, 2010, letter sent 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. 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. Because you live within commuting distance to your institution, FERPA would not require it to provide you with copies of your education records. Furthermore, it appears that Dr. Cheryl Somers at your institution provided you access to your education records when it "read aloud" excerpts from your education records. (See highlighted portion of the enclosed guidance.)
- FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See highlighted portion of the enclosed guidance.)
- Requests to modify a grade, opinions in education records, and other substantive decisions are not subject to FERPA's amendment provision. (See highlighted portion of the enclosed guidance.)

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

Sincerely,

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure



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

(b)(6)

NOV 05 2010

Dear

(b)(6)

This is in response to your September 4, 2010, letter to this office in which you inquire about the Family Educational Rights and Privacy Act (FERPA) relative to a request made under the State of Connecticut's open records law for the disclosure of hearings concerning two children's residency eligibility with respect to a school they were attending. This Office administers FERPA, a Federal law, which addresses issues pertaining to education records. Specifically, FERPA affords parents and eligible students the right to have access to their children's or their 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.

Under FERPA "education records" are broadly defined to mean any records that are (a) directly related to a student; and (b) maintained by an educational agency or institution or by a party acting for the agency or institution. 34 CFR § 99.3 "Education records." Thus, the type of records to which you refer would be "education records" under FERPA if the records are directly related to the student and maintained by the school. Accordingly, in order for the State Board of Education to disclose the student's education record absent consent of the parent, an exception in FERPA would have to apply that allows for the disclosure absent the prior written consent of the parent, and if not, the parent must provide his or her prior written consent allowing for the disclosure of their child's education records. In this regard, FERPA requires that a consent for disclosure of education records must be signed and dated and must specify the records that may be disclosed; state the purpose of the disclosure; and identify the party or class of parties to whom the disclosure may be made.

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

(b)(6)

NOV 09 2010

Dear (b)(6)

This correspondence is written in reference to our November 4, 2010, conversation regarding this office's complaint procedure. As you know, this office administers the Family Educational Rights and Privacy Act (FERPA), which addresses issues pertaining to education records.

This office responded to your May 19 and September 7, 2010, correspondence regarding FERPA by letter dated October 29, 2010, in which we concluded that no violations of FERPA occurred based on the information provided by you and your child's school (see attached). Furthermore, this office informed you of the complaint process, specifically that complaints and inquiries are received via U. S. mail, and not via email. In our November 4 telephone conversation, this office reiterated our complaint process, and discussed our inability to respond to inquiries that are not received in a manner that protects the privacy of our complainants or those which circumvent our administrative complaint procedures. Should you have any additional questions beyond those issues previously addressed in our recent telephone conversation or October 29 response, you may write to this office at the following address:

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

I trust this information clarifies your concerns regarding the administration of FERPA.

Sincerely,

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure



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

(b)(6)

Dear

(b)(6)

This is to respond to your June 7, 2010, letter to this Office in which you allege that (b)(6) Independent School District (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 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 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.)

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

It appears you are alleging that the District violated FERPA when , high school instructional leader for the District, discussed a discipline infraction committed by your son, a student in the District (Student), at a meeting of the Board of Trustees (Board) held to discuss your Level III complaint. You believed that this “closed session” of the Board was being held to discuss only an “academic issue and the failure of teachers to provide work while [the Student] was absent from school, suspended and/or in In-School Suspension.”

Based on information in your letter, it appears that the discipline infraction was related to the issues up for discussion at the closed session of the Board, and that the school officials at the closed session would generally have a legitimate educational interest in obtaining access to information in the Student’s education records. It appears you invited to attend the closed session to present your complaint. By inviting to the closed session, you provided the school with implied consent to disclose information from the Student’s education records to her. It is not clear whether you invited garrison commander at Fort Hood, to the closed session or what his position is relative to the District and your complaint. However, if you invited him to the closed session, you also gave the District implied consent to disclose information from education records to him.

It appears you are also alleging that the District violated FERPA when it disclosed information from the Student's education records to (b)(6). If you wish this Office to further consider this allegation, we need to receive additional information from you. Please inform us whether (b)(6) is a school official in the District, and if so, why you believe he does not have a legitimate educational interest in obtaining access to information in the Student's education records. Generally, a school official has a legitimate educational interest if he or she needs access to information in education records to carry out his or her responsibilities.

Also, please provide us with the date or approximate date the District allegedly disclosed information from the Student's education records to (b)(6) or the date you learned of the disclosure, and the name of the school officials who made the disclosure (if that is known). Also, provide us with the specific nature of the information disclosed to (b)(6) which included the Student's grades. 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,

(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)

NOV 11 2010

Dear (b)(6)

This is in response to your June 14, 2010, letter to this office in which you allege that the (b)(6) (b)(6) (School) violated your rights under the Family Educational Rights and Privacy Act (FERPA) when it disclosed personally identifiable information from the education records of your daughter (Student) to a third party without your prior written consent. This Office administers FERPA which addresses issues that pertain to education records. We will respond to your letter regarding amendment of education records under separate cover.

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 contain information directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a FERPA fact sheet, guidance document, and complaint form.

Under FERPA, a school may not generally disclose personally identifiable information from the education records of a minor student to a third party unless the student's parent has provided written consent. There are several exceptions to FERPA's prohibition against nonconsensual disclosure of education records. However, it does not appear that any of these exceptions apply to your situation.

It appears you are alleging that the School violated your rights when (b)(6), a school official at the School, disclosed information regarding the Student's disability to another individual (or third party) to whom your incoming cell phone calls had been transferred. Please see page six of the guidance document for the types of information this Office requires from parents in order to consider conducting an investigation of an alleged improper disclosure of information from a student's education records.

If you wish this Office to further consider your allegation, we need to receive additional information from you. Please complete the enclosed complaint form and include: your daughter's name, (b)(6) position at the school, the name of the "individual" to whom information from the Student's education records was disclosed, and the specific nature of the information regarding the Student's disability that (b)(6) allegedly disclosed to the individual. Also, if possible, please provide us with a written statement from the individual regarding the disclosure and the specific information that was improperly disclosed. We will review the information you submit and take any appropriate action.

Page 2 - Ms. Mary Ruffin

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

Sincerely,

(b)(6)

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosure



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

NOV 12 2010

(b)(6)

Dear

(b)(6)

This letter is in response to your May 25, 2010, correspondence 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 copies of your child's education records. You also request information regarding the requirements of FERPA's amendment provision. FPCO administers FERPA, which affords parents and eligible students certain rights with regard to education records.

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

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

Our review of the information that you provided does not indicate that the school has denied you an opportunity to inspect and review your child's education records but, rather, has denied you copies of those records. Because a school is not required to provide a parent or eligible student with copies of education records, except under certain circumstances, it appears that the school has complied with FERPA's access provisions.

In response to your inquiry regarding FERPA's amendment provision, requests to modify a grade, opinions of school officials in education records, and other substantive decisions are not subject to FERPA's amendment provision. Based on the information you provided FPCO, you are seeking to amend those of your child's education records which are based on opinion and are substantive decisions. Accordingly, FERPA's amendment provision does not apply to your circumstance. For your convenience, I have highlighted the applicable portion of the enclosed guidance document.

Ms. Theresa French–Page 2

You may also find more information regarding FERPA on our website at:
<http://www2.ed.gov/policy/gen/guid/fpco>.

Sincerely

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure



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

(b)(6)

NOV 22 2010

Dear (b)(6)

This is to respond to your September 12, 2010, letter and your November 2, 2010, e-mail to this Office in which you allege that (b)(6) (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232; 34 CFR § 99. You allege that the above school, school district, 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 the FERPA regulations.

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.)

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

In your letter, you indicate that your son (Student) attends (b)(6) (School) in the District where he was involved in an altercation with another student (Other Student). (b)(6) principal of the School, asked both students involved in the altercation to "write a statement which explains what happened and to sign it." Subsequently, the resource officer (for the School or District) informed each student that "what they have just signed is a police report and that they are to be criminally charged with disorderly conduct," and the resource officer collected the statements. Specifically, you allege that the District violated your rights under FERPA when the resource officer disclosed the statement written and signed by the Student to the "police department, the juvenile prosecutor, and the juvenile probation department."

As indicated above, your complaint does not meet FERPA's threshold requirement for timeliness. As such, there is no basis for this Office to further consider it. Notwithstanding the fact that your complaint is not timely, it also does not appear that the District violated FERPA as you allege. It is not clear from the information you have provided to us whether the "resource officer" was also designated as a school official and/or as a law enforcement unit official. See the bottom of page two and top of page three of the guidance document for a discussion of the school official exception and § 99.8 (the clipped and highlighted portion) of the FERPA regulations for a discussion about law enforcement units and officials.

Let's say the resource officer was a school official and a law enforcement unit official. Once he collected the Student's statement, the statement became an education record subject to FERPA. However, the statement would also qualify as a law enforcement unit record which the resource

Page 3 -

(b)(6)

officer would be permitted by FERPA to nonconsensually disclose to third parties, including officials in the local police department. If the resource officer was not a school official, the Student's statement was never maintained by the District, and therefore, it never became an education record protected by FERPA.

It does not appear that the District's procedure for obtaining statements from students involved in altercations and subsequently having the student statements provided to the police department, as set forth in your allegation, is a violation of FERPA. However, if you and other parents in the District are unhappy with this District procedure, you may want to discuss your concerns with your local board of education.

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

Sincerely,

(b)(6)

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosures