JAN 29 2009

(b)(6)

Dear (b)(6)

This is in response to your December 8, 2008, letter to former Secretary Spellings that was forwarded to this Office for response because we administer the Family Educational Rights and Privacy Act (FERPA). In your letter, you state that "it has been widely reported that" officials of (b)(6) (University) "turned over private student information to police without a warrant" as part of an investigation of allegations against members of the University lacrosse team. You do not claim that your own education records were involved in this disclosure. You request information concerning whether this Ofice "made inquiries" to the University about these alleged disclosures; what the University's response was if inquiries were made; and what action we have taken or intend to take following an investigation of these allegations. You state you are concerned that other postsecondary institutions may perceive a lack of "reprimands and sanctions" from this Office as establishing "a misleading precedent" that "a deliberate attempt to frame innocent students with crimes they did not commit . . . will not face questions" from this Office.

This Office administers FERPA, which addresses issues pertaining to education records. We are responsible for responding to a multitude of inquiries, complaints, and requests for technical assistance regarding FERPA. FERPA is a Federal law that gives eligible students the right to have access to their education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. Education records are those records that contain information directly related to a student and that are maintained by an educational agency or institution or by a party acting for the agency or institution.

This Office investigates those timely complaints containing specific allegations of fact giving reasonable cause to believe that a violation of FERPA has occurred. A complaint is timely if it is submitted to this Office within 180 days of the alleged violation or of the date that the complainant knew or reasonably should have known of the alleged violation.

This Office's enforcement process is intended to work cooperatively with postsecondary institutions to achieve their voluntary compliance with FERPA's requirements. Following a review of the allegations and evidence submitted by a complainant, this Office may initiate an administrative investigation by sending the institution and the complainant a notification letter about the allegation, and requesting a written response from the institution concerning the allegation. If this Office then determines that an institution is in violation of FERPA, the institution and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the institution 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 an institution take punitive or disciplinary action against an individual as the result of a FERPA violation. This Office closes its investigation when the institution has completed the required corrective actions.

Information concerning this Office's investigations and its findings of FERPA violations are protected under the Privacy Act from release to parties not directly related to the particular allegations. Because it does not appear that your own education records were part of the alleged disclosure by the University, this Office is not able to respond to your specific inquiry in this matter.

I trust the above information is helpful in explaining the scope and limitations of FERPA as it relates to your concern. A guidance document for students about FERPA is enclosed.

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure