Mr. Gerald Dempsey
Superintendent
Plainview-Old Bethpage Central School District
106 Washington Avenue
Plainview, New York 11803

NOV 30 2009

Dear Mr. Dempsey:

This is in regard to a concern addressed to this Office by (b)(6) (Parent). The Parent alleged that the District did not provide her with an opportunity to inspect and review certain of the education record of her son (b)(6) Student), in response to her requests. The Student attends Stratford Road School in the District. 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 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. Enclosed for your information is a copy of the FERPA regulations. 34 CFR Part 99.

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. 34 CFR § 99.3 "Education records." Under FERPA, a school is required to provide a parent with an opportunity to inspect and review his or her minor child's education records within 45 days of a request. 34 CFR § 99.10.

A school is not required to provide a parent with copies of education records unless a failure to do so would effectively prevent the parent from obtaining access to the records. A case in point would be a situation in which the parent lives outside commuting distance of the student's school. However, a school is required to offer the parent an opportunity to inspect and review his or her child's education records in response to a request by a parent for copies of education records. Also, if a parent failed to request access to education records from the appropriate official at a school or in a school district, the school or district is required by FERPA to either forward the request to the appropriate official or to advise the parent of who is the appropriate official to contact for access to education records.

In addition to conducting investigations of alleged violations of FERPA, this Office also provides schools with technical assistance to ensure they are in compliance with or come into compliance with FERPA. This letter is meant to provide the District with technical assistance

regarding the definition of the term "education records" and the requirement for "providing a parent access to education records."

Also enclosed is a copy of a July 17, 2009, letter to (b)(6) assistant director of pupil personnel services for the District, in which the Parent requests access to certain of the Student's education records. Please review the highlighted paragraphs in the letter to see the specific education records to which the Parent is requesting access. With regard to the second highlighted paragraph, minutes of a meeting regarding a student's IEP would generally be directly related to the Student and, therefore, the Student's education records to which the Student's parent would have the right to inspect and review.

If one of the school officials in a meeting took memory-jogger type notes, such notes could meet the definition of "sole possession records" under certain circumstances. 34 CFR s 99.3(b)(1). Sole possession records are not education records subject to parental access. However, it does not appear that the records at issue here are sole possession records.

The District should contact the Parent within three weeks of receipt of this letter to set up an appointment for the Parent to inspect and review the education records requested in her July 17 letter. This Office recommends that the District take this opportunity to inform (b)(6) and other appropriate officials in the District of the definition of education records and a parent's right to have access to education records as it relates to the issues in this matter.

I trust that the above information is helpful in explaining the requirements of FERPA as it relates to the Parent's concerns. If you have any questions regarding the issues in this matter or FERPA in general, you may contact Mr. Ricky Norment of my staff at 202-260-3887.

Sincerely,

Paul Gammill
Director
Family Policy Compliance Office

Enclosures