(b)(6)

NOV 30 2009

Dear (b)(6)

This is to respond to your July 16, 2009, complaint form that was received by this Office on October 26, 2009. You allege that the (b)(6) (University) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA) when it did not provide you with access to and disclosed information from the education records of your daughter (b)(6) (Student). This Office administers FERPA, which addresses issues pertaining to education records.

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. 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. Under FERPA, whenever a student becomes eighteen years of age or attends a postsecondary institution, all rights once afforded to the parents transfer to the student ("eligible student"). Based on the information you provided, your daughter is an eligible student and holds the rights under FERPA. Enclosed is a copy of a FERPA fact sheet and guidance regarding disclosure of information from education records to parents of postsecondary students.

Under FERPA, a school must provide an eligible 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 a 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 records. A case in point would be a situation in which the student does not live within commuting distance of the school. Based on the information you provided this Office, it appears that the Student lives within commuting distance to the University. Under these circumstances, the University is required to provide the Student with an opportunity to inspect and review her education records, though it could choose to provide the Student with copies.

FERPA generally requires that a student provide written consent before a school can disclose education records to a third party. However, a school is not required to provide any third party with access to education records, even when the student has provided prior written consent for such records to be disclosed to that third party. Therefore, although the University may do so, it is not required to provide you with access to, or copies of, your daughter's education records in response to a request from you or your daughter.

This Office investigates those timely complaints that contain specific allegations of fact giving reasonable cause to believe that a school has failed to comply with FERPA. A timely complaint is defined as one that is submitted to this Office within 180 days of the date that the complainant knew or reasonably should have known of the alleged failure to comply with FERPA. Notwithstanding the fact that you have no standing to file a FERPA complaint on behalf of your daughter, your allegation is untimely based on the October 26, 2009, date when this Office received your allegation as discussed above. Accordingly, no basis exists for this Office to take further action in regard to this allegation.

In regard to any allegation that on September 15, 2009, school officials improperly disclosed your daughter's education records to other students without her prior written consent, your daughter has not provided sufficient detail for this Office to consider such an allegation. Your daughter needs to provide this Office with the following: a completed complaint form, which is signed and dated by the Student; a clearly stated allegation which specifies how the Student's FERPA rights were violated related to any September 15, 2009, disclosure; the name(s) of the school officials whom your daughter alleges made any disclosure from her education records; the specific information disclosed from her education records; and the names of the third parties to whom your daughter's information was improperly disclosed. Your daughter may wish to obtain a signed and dated statement from any or all of the students to whom any disclosure was made which describes the specific education records disclosed. Please provide the required information within 2 weeks after receiving this letter. Once this Office receives the required information, we will consider the information your daughter provides 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,

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosures