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

(b)(6)

SEP 10 2010

Dear (b)(6)

This is to respond to your November 8, 2009, complaint form to this Office in which you inquire whether (b)(6) (School) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR Part 99.

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

__X_ 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.

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.)

__X__ 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.)

The principal of the School and the superintendent are correct. Once a student turns 18 years of age or attends a postsecondary school, he or she becomes an "eligible student," and all rights under FERPA transfer from the parent to the eligible student. Since your daughter is 18, all rights under FERPA have transferred to her. The School is generally prohibited by FERPA from providing you with access to your daughter's education records unless your daughter provides the School with written consent.

Please see the highlighted portions of the enclosed guidance document for additional information on FERPA as it relates to your concern, including FERPA's dependent student exception. However, as stated in the guidance document, disclosures of information from education records by a school under the dependent student exception are permissive and not required.

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

Sincerely,

(b)(6)

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosures