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

(b)(6)

SEP 10 2010

Dear (b)(6):

We are writing to inform you that the Family Policy Compliance Office (FPCO or this Office) is not initiating an investigation with regard to a complaint you filed with us on February 9, 2010. In that complaint, you alleged that the (b)(6) (University) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

This Office investigates certain complaints alleging violation of FERPA if it:

(a) Is filed by the "parent" of a minor student at a public elementary or secondary school or an "eligible student" who is at least 18 years of age or who attends or attended a postsecondary institution with FERPA rights in the education records which are the subject of the complaint;

(b) Is filed within 180 days of the alleged violation or within 180 days after the complainant knew or reasonably should have known about the violation; and

(c) Contains specific allegations of fact giving reasonable cause to believe that a FERPA violation has occurred.

The FERPA regulations (34 CFR Part 99) can be found on our website at http://www.ed.gov/policy/gen/reg/ferpa/index.html.

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

In this case, we will not open an investigation into your complaint because it does not provide specific allegations of fact which give the Office reasonable cause to believe that a FERPA violation occurred. In order for the Office to initiate an investigation, a complaint must contain such specific allegations. If you wish this Office to further consider your allegation, we need to receive additional information from you.

The provisions of 34 CFR Part 99, Subpart D, specify the conditions under which information can be disclosed from student education records. Generally, FERPA prohibits disclosure of personally identifiable information from student education records unless the parent or eligible student has provided specific prior written signed consent for the disclosure. FERPA allows for limited disclosure of such records without consent under limited circumstances to specific persons and under specific conditions as detailed at 34 CFR § 99.31.

If you wish this Office to further consider your allegation that (b)(6) head coach of the women's crew team, and (b)(6), assistant coach of the women's crew team, improperly disclosed information from your education records on September 12 and September 15, 2009, please provide us with the following information: the third party to whom your education records were disclosed and the specific nature of the information disclosed from your education records. We will review the information you submit and take any appropriate action.

If you wish this Office to further consider your allegation that (b)(6) "may be sharing confidential information . . . with crew members," please provide us with the date you learned of the alleged disclosure of information from your education records and evidence that such disclosure occurred, such as a signed statement from a member of the crew team to whom such information was disclosed. We will review the information you submit and take any appropriate action.

The provisions of 34 CFR Part 99, Subpart B, detail the right of inspection and review of education records. Generally, FERPA requires that educational agencies and institutions provide parents or eligible students access to education records within a reasonable period of time, but not more than 45 days after the request.

With regard to your allegation that the University failed to provide you access to several e-mails in response to your requests, (b)(6), senior counsel for the University, stated that the University does not maintain the e-mails at issue in his December 17, 2009, letter to your mother. Please provide us with any additional evidence you may have that such e-mails were maintained by the University at the time of your request. 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. If you have questions regarding this matter, you may contact me as follows:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-8520
(202) 260-3887

Sincerely,

(b)(6)

Ricky C. Norment
Program Analyst
Family Policy Compliance Office