(b)(6)

JAN 12 2010

Dear (b)(6):

This is to respond to your March 18, 2009, complaint form and information to this Office in which you allege that rights afforded you under the Family Educational Rights and Privacy Act (FERPA) were violated by (b)(6) at (b)(6) (University) when it did not amend your education records relating to your grade appeal in response to your requests. Additionally, you raise concerns that do not pertain to FERPA. Issues that do not relate to FERPA will not be addressed in this letter. This Office administers FERPA, which addresses issues pertaining to education records.

FERPA is a Federal law that gives 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 directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed is a copy of a FERPA guidance document.

FERPA affords students the opportunity to seek amendment of their education records which they believe contain information that is inaccurate or misleading. While a school is not required to amend a record in accordance with a student's request, it is required to consider the request for amendment of an education record, to inform the student of its decision, and if the request is denied, to advise the student of the right to a hearing on the matter. If, as a result of a hearing, a school decides not to amend the record, then the student has the right to insert a statement in the record setting forth his or her views. That statement must remain with the record for as long as the record is maintained.

This right is not unlimited, however, and a school is not required by FERPA to afford a student the right to seek to change substantive decisions made by school officials, such as grades or other evaluations of a student. This fact is indicated in the legislative history of FERPA. The primary source of legislative history regarding FERPA is contained in the "Joint Statement in Explanation of Buckley/Pell Amendment," Volume 120 of the Congressional Record, pages 39862-39866. The Joint Statement states that FERPA was "not intended to overturn established standards and procedures for the challenge of substantive decisions made by an educational institution." (Emphasis added.) FERPA was intended to require only that educational agencies and institutions conform to fair recordkeeping practices and not to override the accepted standards and procedures for making academic assessments, disciplinary rulings, or placement

determinations. Thus, while FERPA affords students the right to seek to amend education records which contain inaccurate information, this right cannot be used to challenge a grade or an individual's opinion. Because the records you are seeking to amend pertain to a substantive decision as discussed above, FERPA's amendment provision does not apply in this instance. Accordingly, no basis exists for this Office to investigate your allegation that the University failed to consider your request to amend your grade.

For your convenience, we are returning the information you provided to this Office in order that you may use it in the future. For further information regarding issues which you believe may be addressed by the U. S. Department of Education, you may contact the Department via our toll-free telephone number at 1-800-USA-LEARN (800-872-5327).

I trust this information is helpful to address the scope and limitations of FERPA as it relates to your concerns.

Sincerely,

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosures