(b)(6)

JAN 28 2010

Dear (b)(6):

This is to respond to your May 30 and July 23, 2009, letters to this Office and January 14, 2009, email to Secretary Duncan in which you allege that the (b)(6) campus (University) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA) when it required you to provide certain of your education records to your employer as a condition of your employment at the University. 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 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 is a copy of the FERPA guidance document for students.

FERPA generally prohibits a school from disclosing a student's education records to third parties unless the student to which the records relate provides his or her prior written consent. One of the exceptions to FERPA's prior written consent requirement allows "school officials" within the agency or institution to obtain access to education records provided the educational agency or institution has determined that they have "legitimate educational interest" in the information. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility. This Office has interpreted the term broadly to include such positions as a teacher; president; chancellor; board member; trustee; registrar; counselor; admissions officer; attorney; accountant; human resources professional; information systems specialist; and support or clerical personnel. Notwithstanding the fact that you disclosed certain of your education records to your employer, your supervisors at the University where you were a student employee are considered to have a legitimate educational interest and would be permitted to have access to your education records without your prior written consent. Based on the information you provided to this Office, no basis exists for this Office to investigate your allegation that the University violated your rights under FERPA.

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

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure