(b)(6)

JAN 12 2010

Dear (b)(6)

This is to respond to your September 8, 2008, complaint form to this Office in which you allege that (b)(6) (College) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA) when it failed to provide access to certain of your education records in response to your requests. Additionally, you raise other 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 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 a FERPA fact sheet.

Under FERPA, a school must provide a 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 the 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 education 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 in your correspondence, it appears that you live within commuting distance to the College. As such, it is required only to provide you with an opportunity to inspect and review your education records, although it is permitted to provide you with copies.

In accordance with FERPA, a school generally is not required to maintain particular education records or education records that contain specific information. Rather, a school is required to provide certain privacy protections relative to those records it selects to maintain. Nor does FERPA require schools to create or to re-create lost or destroyed education records. It may destroy education records without notice to the student, unless there is an outstanding request from the student to inspect and review such records.

Based on the information you provided this Office, it appears that the College complied with FERPA when it provided you with access to certain of your education records, as evidenced by some of the copies of records that you provided to this Office. As stated above, the College is not required to provide you with copies of your education records nor is it required to re-create education records that it does not maintain. You have not provided this Office with evidence that other records existed at the time you made a request for access. Accordingly, no basis exists for this Office to investigate your allegation that the College failed to provide you with access to your education records.

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

Enclosure