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

NOV 04 2010

(b)(6)

Dear (b)(6)

This is to respond to your May 5 and July 30, 2010, letters 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) (University) when it denied you access to your education records. 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. Generally, a case in point would be a situation in which the student does not live within commuting distance of the school.

On September 7, 2010, I spoke with (b)(6), University associate counsel, via telephone who stated that the University complied with your February 24, 2010, request for access when it offered you the opportunity to inspect and review your education records. She confirmed this in her April 9, 2010, response to you, which you provided to this office. Furthermore, she confirmed that you commuted to the University at the time of your request.

This office must determine whether a school has a policy or practice that has the effect of preventing access to education records under FERPA. Specifically, you alleged that the University violated your rights under FERPA when it failed to provide you copies, because you reside outside of commuting distance to the school. However, the University substantiated that you commuted to the campus and asserted that it would be reasonable for you to inspect and review your records, as it offered you in its April 9 response, at such time when you were at the campus. Accordingly, we cannot conclude that the University has a policy or practice that has the effect of preventing you access to your education records in violation of FERPA. Based on this information and information you provided, the University complied with FERPA when it

provided you with an opportunity to inspect and review your education records, although it would have been permitted, not required, to provide you with copies. Should you wish to inspect and review your education records, you should make appropriate arrangements with the University.

I trust this addresses your concerns as they relate to the scope and limitations of FERPA.

Sincerely,

(b)(6)

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure