(b)(6)

APR 6 2011

Dear (b)(6)

This is to respond to your June 20, 2010, letter to this office in which you allege that (b)(6) (College) has violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). You appear to allege that officials of the College's (b) ROTC program disclosed your education records to other students, who are third parties, without your prior consent. 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 for students.

Under FERPA, a school may not generally disclose personally identifiable information from the education records of a student to a third party unless the student has provided written consent. Based on information in your letter to this office, it appears that you gave written consent for (b) ROTC officials to access your education records. In such an instance, FERPA would permit the College to nonconsensually disclose your education records to your school's (b) ROTC program officials. Accordingly, while it appears that the College may be permitted to disclose your education records to (b) ROTC representatives, you have not provided sufficient information for this office to determine whether the scope of the consent was sufficient for the (b) ROTC officials to redisclose your education records to third parties. Furthermore, it is not entirely clear that the information disclosed by the (b) ROTC representative came from your education records.

Please note that FERPA does not protect the confidentiality of information in general; rather FERPA prohibits the improper disclosure of information derived from education records. Therefore, if a school official disclosed information about a student of the official's personal knowledge, observation, or hearsay, then that information would not be protected under FERPA.

In order for this office to further consider any allegation, you need to provide this office with the following: a completed copy of the enclosed complaint form, which is signed and dated; your specific allegation; the name(s) of the school officials whom you allege made any disclosure

from your education records; the specific information disclosed from your education records and dates of the alleged disclosure(s); a copy of a signed consent form which you signed which permits the school to consent to access your records; and names of the third parties to whom your information was improperly disclosed.

You may wish to obtain a signed and dated statement from any or all of the students to whom any disclosure was made which describes the specific education records disclosed. Please provide the required information within 2 weeks after receiving this letter. Once this Office receives the required information, we will consider the information you provide and take any appropriate action.

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

Sincerely,

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosures