(b)(6)

APR 8 2011

Dear (b)(6)

We are writing to inform you that the Family Policy Compliance Office (FPCO or this Office) is not initiating an investigation with regard to a complaint you filed with us on October 12, 2010. In that complaint, you are alleging that the (b)(6) (School) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. Your son, (b)(6) (Student), attends the School.

In your letter you state that the Student was searched by officials at the School and subsequently expelled from the School. These concerns, as you have raised them, are not addressed by FERPA and will not be discussed in this letter.

This Office investigates certain complaints alleging violation of FERPA if it:

(a) Is filed by the "parent" of a minor student at a public elementary or secondary school or an "eligible student" who is at least 18 years of age or who attends or attended a postsecondary institution with FERPA rights in the education records which are the subject of the complaint;

(b) Is filed within 180 days of the alleged violation or within 180 days after the complainant knew or reasonably should have known about the violation; and

(c) Contains specific allegations of fact giving reasonable cause to believe that a FERPA violation has occurred.

The FERPA regulations (34 CFR Part 99) can be found on our website at http://www.ed.gov/policy/gen/reg/ferpa/index.html. Enclosed for your information are a FERPA guidance document and complaint form.

This Office's enforcement process is intended to work cooperatively with schools and districts to achieve their voluntary compliance with FERPA's requirements. Following a review of the evidence and allegations submitted by a complainant, we may initiate an administrative investigation by sending the district and the complainant a notification letter about the allegation, and requesting a written response from the district concerning the allegation. If we then

determine that a district is in violation of FERPA, the district and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the district in order to come into compliance with FERPA. Such measures can include training of school officials or a memorandum advising school officials of the specific requirements at issue in the complaint. There is no basis under FERPA to require that a district take punitive or disciplinary action against an individual school official as the result of a FERPA violation. We close the investigation when the district has completed the required corrective actions.

In this case, we will not open an investigation into your complaint because it does not provide specific allegations of fact which give this Office reasonable cause to believe that a FERPA violation occurred. In order for this Office to initiate an investigation, a complaint must contain such specific allegations.

The provisions of 34 CFR Part 99, Subpart D specify the conditions under which information can be disclosed from student education records. Generally, FERPA prohibits disclosure of personally identifiable information from student education records unless the parent or eligible student has provided specific prior written signed consent for the disclosure. FERPA allows for limited disclosure of such records without consent under limited circumstances to specific persons and under specific conditions as detailed at 34 CFR § 99.31.

It appears you are alleging that the School disclosed information from the Student's education records to a third party without your prior written consent. Specifically, it appears you are alleging that the School sent correspondence to your neighbor which included information from the Student's education records.

If you wish this Office to further consider your allegation we need to receive additional information from you. Please complete the enclosed complaint form and include: the date of the alleged disclosure or the date you learned of the alleged disclosure; the specific nature of the information disclosed to your neighbor in the correspondence from the School; and the name or address of your neighbor. If possible, please include a copy of the information that was in the correspondence at issue which is directly related to the Student. We will review the information you submit and take any appropriate action.

The provisions of 34 CFR Part 99, Subpart B detail the right of inspection and review of education records. Generally, FERPA requires that educational agencies and institutions provide parents or eligible students access to education records within a reasonable period of time, but not more than 45 days after the request. A school is not required to provide a parent with copies of education records unless a failure to do so would effectively prevent the parent from obtaining access to the requested records. A case in point would be a situation in which the parent does not

live within commuting distance of the school. Based on the information in your letter, it appears that you live within commuting distance of the School. Therefore, the School is required by FERPA to provide you with an opportunity to inspect and review education records in response to a request. The School would not be required to provide you with copies of education records, though it would be permitted to do so.

In your letter to this Office, you state that you "never received a written statement concerning [the Student's] expulsion." In order to exercise your right to inspect and review information from education records regarding the Student's expulsion, you should write to the appropriate official at the School and request an opportunity to inspect and review records regarding the Student's expulsion. Although it is not required, you may want to send a copy of this letter along with your request.

If the School does not provide you with an opportunity to inspect and review the requested education records, or fails to contact you within 45 days, you may write to this Office. At such time, please provide us with a dated copy of your letter to the School requesting access to the Student's education records, any response from the School, and a completed copy of the enclosed complaint form. We will review the information you submit and take any appropriate action.

If you have questions regarding this matter, you may contact me. The name, address, and telephone number of the Office are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-8520
(202) 260-3887

Sincerely,

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosures