(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 April 1, 2010. In that complaint, you are alleging that the (b)(6) (District) and (b)(6) (b)(6) (Academy) both violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99. Specifically, you are alleging that the District and the Academy failed to comply with your requests for access to your children's education records. At the time of your original allegations, your sons, (b)(6) (Students), attended school in the District, and your son, (b)(6) (Student) attended school at the Academy.

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 two complaint forms.

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 you do 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 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 required to provide a parent with copies of education records, or make other arrangements, if a failure to do so would effectively prevent the parent from obtaining access to the records.

(b)(6) Public Schools

Originally, you alleged that the District violated your rights under FERPA when it failed to provide you access to the education records of the Students in response to your February 9 and April 20, 2009, requests. As you know, this Office sent a March 9, 2010, letter of technical assistance to the District asking it to look into this matter. We stated that if your allegation was found to be factual, the District should provide you with the education records requested in your February 9 and April 20, 2009, letters. Enclosed for your review are copies of your February 9 and April 20, 2009, letters to the District and our March 9, 2010, letter to the District.

If you want this Office to further consider this allegation, we need to receive additional information from you. Please inform us whether the District provided you with any of the requested education records after receiving our March 9, 2010, letter. If so, inform us which education records the District maintained, after receipt of our March 9, 2010, letter, to which you believe it failed to provide you access and evidence that such education records existed at that time. Also please inform us whether the District made contact with you regarding our request in the March 9, 2010, letter. If so, please inform us of the contact method (letter, telephone, e-mail, etc.) and of any relevant discussion that took place between the District and you regarding access to the requested education records.

In order to serve you best at this point, however, you should write again to the appropriate official in the District in order to obtain access to the Students' education records. You should send a letter to the District requesting access to the specific education records of the Students to which you are seeking access. It would be helpful if your letter only discussed obtaining access to the Students' education records and not address any other issue you may be having with the District.

If the District fails to provide you access to 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 District requesting access to education records, any response from the District, and a completed copy of one of the enclosed complaint forms. We will review the information you submit and take any appropriate action.

(b)(6) Academy

Originally, you alleged that the Academy violated your rights under FERPA when it failed to provide you access to a psychiatrist's "psychological evaluation" report regarding you that you believed the Academy maintained at the time of your November 4, 2008, request for that document. As it turned out, the Academy only maintained a cover letter regarding the report which it had destroyed prior to our March 9, 2010, letter of technical assistance to the District. Thus, we did not advise the Academy to contact you or to provide you with access to any education records in our March 9, 2010, letter to the Academy. Enclosed for your information is a copy of our March 9, 2010, letter to the Academy

In order to exercise your right to obtain access to any of the Student's education records maintained at the Academy, I suggest you write to the appropriate official at the Academy requesting access to the specific education records to which you are seeking access. It would be helpful if your letter only discussed obtaining access to the Students' education records and not address any other issue you may be having with the Academy.

If the Academy fails to provide you access to 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 Academy, any response from the Academy, and a completed copy of one of the enclosed complaint forms. We will review the information you submit and take any appropriate action.

If you have questions regarding this matter, you may contact Mr. Ricky Norment of my staff. The name, address, and telephone number of this Office are:

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

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosures