(b)(6)

APR 13 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 June 10, 2010. In that complaint, you are alleging that (b)(6) (District) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. You allege that the District violated FERPA when it failed to provide you access to all of the education records of your son, (b)(6) Student), that it maintains in response to your requests. In addition, you express concerns regarding amending the Student's education records

You also raise concerns regarding special education services received by the Student and possible violations of the student's civil rights. Enclosed is contact information for organizations that may be able to address your concerns in these areas. Finally, you raise concerns regarding several issues that are not addressed by FERPA as you have raised them, including classroom placement for the Student and disciplinary action taken against the Student. These issues 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 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. If you wish this Office to further consider your allegation regarding access to the Student's education records, we need to receive additional information from you.

Specifically it appears you are alleging that the District failed to provide you access to all of the Student's education records in response to your April 20 and June 9, 2010, requests to (b)(6) principal of (b)(6) (School), and (b)(6) superintendent of the District. You state that the District did not provide you with access to "incident reports, Student Behavior Referral documents and other teachers' notes about [the Student]." Please verify whether we have accurately stated your allegation.

Enclosed with your letter to this Office, is a copy of a handwritten note by (b)(6) in which he states, "I cannot give you [the Student's] CSE file, however, you can request it from (b)(6) (b)(6). Please inform us whether you believe that the remainder of the Student's education records to which you are seeking access could be maintained by (b)(6) and whether you contacted him as directed by (b)(6) We will review the information you submit and take any appropriate action.

The provisions of 34 CFR Part 99, Subpart C describe the process for requesting amendment of education records. Generally, parents or eligible students have the right to request that a school correct education records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a hearing. After the hearing, if the school decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information. As such, a school is not required to follow the requirements of the FERPA amendment process when the item is not amendable under FERPA.

The FERPA amendment procedure may be used to challenge facts that are inaccurately recorded. However, it may not be used to challenge a grade, an opinion, or a substantive decision made by a school about a student. FERPA requires only that schools conform to fair recordkeeping practices. It does not provide a means to override the accepted standards and procedures for making academic assessments, disciplinary rulings, or placement determinations. The FERPA right to seek amendment of education records which contain inaccurate information cannot be used to challenge a grade, an individual's opinion, or a substantive decision made about a student by a school.

As indicated above, the focus of the FERPA amendment procedure is to permit a parent to seek to amend inaccurately recorded information in a student's education records. You may not generally seek to amend information because you disagree with the information. It must be inaccurately recorded. Also, a school would not be required to respond to a request by a parent to amend information that is not amendable under FERPA, such as a grade, an individual's opinion, or a substantive decision made about a student by the school.

If you believe there is inaccurately recorded information in the Student's education records, you should write to the appropriate official in the District and request amendment of the inaccurately recorded information in the Student's education records. Along with your request, you must include evidence to support your assertion that the information is inaccurately recorded. If the District fails to amend the information as requested, or offer you the opportunity for a hearing on the matter, you may contact this Office. At such time, please provide us with a dated copy of your request to the District along with the evidence you submitted, any response from the District, 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:

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

Sincerely,

Ricky Norment
Program Analyst
Family Policy Compliance Office

Enclosures