Dr. J. Bernard Machen
President
University of Florida
226 Tigert Hall
P.O. Box 113150
Gainesville, Florida 32611

APR 13 2011

Dear Dr. Machen:

This is in response to an allegation against the University of Florida submitted to this Office by (b)(6) (Student), a student in the Neonatal Nurse Practitioner Program at the University. The Student alleges that the University violated the Family Educational Rights and Privacy Act (FERPA) when it disclosed personally identifiable information from other students' education records to her absent those students' written consent. This Office administers FERPA, which addresses issues that pertain to education records.

Specifically, the Student alleges that (b)(6) director of the Neonatal Nurse Practitioner Program at the University, violated FERPA when (b)(6) disclosed to the Student information from other students' education records. Apparently, (b)(6) disclosed to the Student information from two other students' "clinical logs." Enclosed for your review is a copy of one of the students' clinical log.

FERPA is a Federal law that gives eligible 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. 20 U.S.C. 1232g; 34 CFR Part 99. Enclosed for your information is a copy of the FERPA regulations which may also be viewed at http://www.ed.gov/policy/gen/reg/ferpa/index.html.

FERPA vests the rights it affords in the parents of minor students and in eligible students (as those terms are defined in 34 CFR §99.3). The statute does not provide for these rights to be vested in a third party who has not suffered an alleged violation. Thus, we require that a parent or eligible student have "standing," i.e., have suffered an alleged violation in order to file a complaint under FERPA. The Student does not have standing relative to her allegation.

In addition to conducting investigations of alleged violations of FERPA, this Office also provides educational agencies and institutions with technical assistance to ensure they are in compliance or come into compliance with FERPA. This letter is written as technical assistance to the University.

The term "education records" means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. CFR § 99.3 "Education records." The information from the students' clinical logs would meet the definition of education records. Under FERPA, a school may not generally disclose personally identifiable information from an eligible student's education records to a third party unless the student has provided written consent. 34 CFR § 99.30. There are several exceptions to FERPA's general prohibition against nonconsensual disclosure of education records. However, none of FERPA's exceptions apply to the disclosure alleged by the Student.

Based on the evidence provided by the Student, it appears that the University made the alleged disclosure. If this is accurate, the University should take this opportunity to remind all appropriate officials, including (b)(6), of FERPA's general written consent requirement for disclosure of information from student education records. The University may also want to caution appropriate officials to review procedures for verifying e-mails to ensure they do not include unintended information or attachments that would meet the definition of student education records. If you or your staff want to discuss this matter further, you may contact Mr. Ricky Norment of my staff at 202-260-3887.

Thank you for your cooperation in this matter.

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosures

cc: Student