FEB 3 2011

(b)(6)

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 December 1, 2010. In that complaint, you are alleging that (b)(6) in Palm Springs and (b)(6), violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. (b)(6) (Student), attended both these schools.

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. Also, 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 disclosure of such records without consent under limited circumstances to specific persons and under specific conditions as detailed at 34 CFR § 99.31.

Given the facts alleged, the disclosure you described would generally be authorized under Section 99.31(a)(2). It appears (b)(6), the Student's father, informed (b)(6) that he intended to enroll the student in (b)(6) Once (b)(6) had evidence that the Student was seeking or intending to enroll at (b)(6) would generally be permitted to nonconsensually forward education records to (b)(6) Also, please see the second paragraph on page three of the guidance document.

The provisions of 34 CFR § 99.10 detail the right of inspection and review of education records. Also, you will find an overview of the access provision beginning near the bottom of page one of the guidance document 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. However, 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 records. A case in point would be a situation in which the parent does not live within commuting distance of the student's school. Based on the information in your letter, it appears that (b)(6), school director of (b)(6) provided you an opportunity to inspect and review the Student's education records during your August 10, 2010, visit to (b)(6)

Based on your letter, you visited the School again on August 11, 2010, and requested a copy of all the Student's education records. At that time, it appears you were still within commuting distance of (b)(6) Thus, (b)(6) would not be required to provide you with copies of the requested education records. Rather, it would be required to provide you with an opportunity to inspect and review the requested records. If you requested copies of the Student's education records after you left (b)(6) and returned to (b)(6), and you wish this Office to further consider such an allegation, please provide us with the following information: the date you requested access to the education records, the name of the official to whom your request was made (please provide us with any written copy of your request), and the date on which you received copies of the requested education records. We will review the information you provide 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:

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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