(b)(6)

JUN 27 2011

Dear M(b)(6)

This is in response to your letter, dated March 10, 2011, in which you seek access to your child's records maintained by the Head Start program for the 2010-2011 school year at Anacoco Elementary in (b)(6) (District). In this regard you state that on February 15, 2011, you went to the Head Start Building to obtain a copy of your son's Head Start file. However, when you reviewed the file, you state that several incident reports that you had signed during the year were missing. Therefore, you contacted an individual at the Head Start Office who informed you that all the information that the District maintains on your son was in his file to which you had been provided access. This Office administers the Family Educational Rights and Privacy Act (FERPA), which pertains to education records. The other issues you raise in your letter are not addressed by FERPA and, as such, will not be discussed in this letter.

FERPA is a Federal law that affords parents the right to have access to their children's 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. Under FERPA, parents must also provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from a student's education records, except as authorized by law. Enclosed is a guidance document on FERPA for parents.

FERPA applies to educational agencies and institutions that receive Federal funds from programs administered by the U.S. Department of Education (Department). In general, Head Start programs usually receive funds from the Department of Health and Human Services and do not receive funds from programs administered by the Department and are, therefore, not subject to FERPA. However, where a Head Start program is run by a school or school district that is subject to FERPA, any records on a student that the school maintains would be subject to FERPA. As such, a parent would have the right to inspect and review those "education records."

With respect to your request for access to your son's education records, FERPA requires that schools comply with a parent's request for access to his or her children's education records within 45 days of receipt of the request. Additionally, a school is not required by FERPA to provide copies of education records to a parent unless a failure to do so would effectively prevent the parent from exercising the right to inspect and review the records. For example, a school could be required to provide copies, or make other arrangements, if the parent does not live within commuting distance of the school.

FERPA does not require schools to create or maintain education records, or to re-create lost or destroyed education records. Additionally, FERPA does not require a school to keep education records in any particular file or location. Finally, FERPA would not require a school district to honor a request that education records not be destroyed. However, a school may not destroy education records if there is an outstanding request to inspect and review the records. FERPA does not otherwise address the destruction of education records by a school.

While a school district would be required to conduct a reasonable search for education records, it is the responsibility of the parent to clearly specify the records to which he or she is seeking access. If a parent makes a "blanket" request for a large portion of her child's education records and the parent believes that she has not been provided certain records which were encompassed by that request, she should submit a follow-up request clarifying the additional records she believes exist.

We suggest you write a follow-up letter to the District describing the education records of your son that you believe are maintained by the District but to which you have not been provided access. Once the District responds to you relative to the outstanding records to which you believe you have been denied access, you may contact this Office again. At such time, you may complete the enclosed complaint form and provide the letter you sent to the District and any response received. We will review the information you provide and take any necessary action.

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosures