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JUN 27 2011

Dear (b)(6)

This is to respond to your February 11, 2011, complaint form to this office in which you state that the (b)(6) (SEA) to which you have written has violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). Specifically, you state that you have made multiple requests to (b)(6) superintendent of public instruction in (b)(6), to provide you with the names of specific school districts at which your children attended but have received no recent response from him. You provide a copy of a November 5, 2009, response from (b)(6) at the SEA in which she advised you to provide her office with legal documentation which verifies that your parental rights remain intact.

As a preliminary matter, a school or department of education is not required by FERPA to provide or create records that are not maintained in response to a parent's request. It is not clear whether or not the SEA maintains your children's education records. Furthermore, as stated in this office's February 15, 2011, response to you (see attached), FERPA affords certain rights to custodial and noncustodial parents alike, records unless there is a court order or other legally binding document which revokes a particular parent's right to those records. In that response, we discussed the scope and limitations regarding a parent's right to access education records of one's children, particularly in circumstances where a school district or in this instance, a State educational agency, believes that an individual may be a risk.

Also, you have not provided this office with sufficient information (i.e. recent court order) which verifies that you are the parent or whether your parental rights have been terminated. Nor have you provided this office with a copy of a recent request you made to the SEA and its response, if any. In order to exercise rights you may have under FERPA if your rights have not been severed by the courts, you should follow the guidance provided in our February 15 response, and write again to the SEA. You should provide the SEA with a copy of the most recent court order or other legally binding document which verifies that your parental or FERPA rights have not been terminated. If the SEA maintains records regarding your children and fails to respond or otherwise denies your request, you may write to this office again. At such time, please provide this office with a dated copy of your request to the SEA which has denied you access, along with a completed complaint form (see enclosed), and copy, if any, of the SEA's response. Once this office receives the needed information, we will take any appropriate action. Without receiving such information from you, this office will be unable to provide you with further assistance in this matter.

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I trust this information is helpful in discussing the scope and limitations of FERPA as it relates to your concerns.

Sincerely,

Bernard Cieplak
Program Analyst
Family Policy Compliance Office

Enclosure