(b)(6)

JUN - 3 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 September 20, 2007, and again on April 26, 2011. In that complaint, you are alleging that (b)(6) (b)(6) (University) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. You are an associate professor in the (b)(6) (b)(6) (COPHS) -- not a student.

In your letters, you state:

> . . . I also allege that the action of the [University's] Administration, relative to this matter, is part of an on-going pattern of **intimidation, harassment, and retaliation** that is being perpetrated against me by COPHS Administrators and the Provost of [the University] since I participated in protected activities when I (a) sent a written testimony in support of a student's complaint (against COPHS) which was filed with the U.S. Department of Education, Office for Civil Rights (OCR) in Dallas, Texas; (b) filed a complaint of discriminatory practices and retaliation by COPHS with OCR in Dallas, Texas; and (c) wrote an expose on the mismanagement of education at the COPHS. . . .

[Emphasis supplied.] 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.

This Office's enforcement process is intended to work cooperatively with colleges and other postsecondary institutions to achieve their voluntary compliance with FERPA's requirements. Following a review of the allegations and evidence submitted by a complainant, this Office may initiate an administrative investigation by sending the college and the complainant a notification letter about the allegation, and requesting a written response from the college concerning the allegation. If this Office then determines that a college is in violation of FERPA, the college and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the college 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 college take punitive or disciplinary action against an individual as the result of a FERPA violation. This Office closes its investigation when the college has completed the required corrective actions.

In this case, we will not open an investigation into your complaint because your allegation does not meet FERPA's standing requirement described in (a), above. Only a parent or eligible student (as defined in 34 CFR §99.3) has rights protected by FERPA. FERPA does not vest these rights in any third party. An individual must have suffered an alleged violation of his own protected rights, in order to file a valid complaint under FERPA. The FERPA rights in the education records you describe belong to the students listed in the attachment to your May 9, 2007, memorandum.

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

Notwithstanding the fact that you do not have standing under FERPA, you have not provided sufficient evidence to support your allegation. You allege that the University violated FERPA when it disclosed your May 9, 2007, memorandum and attachment to a female student in attendance in COPHS. In addition to the female student's name and several of her grades, your attachment to the memorandum contains the names and grades of a multitude of other students in attendance in COPHS.

As evidence to support your allegation, you provided this Office with a copy of a May 17, 2007, memorandum from (b)(6), an attorney for the female student, to (b)(6) (b)(6) of the (b)(6). However, (b)(6) letter only

mentions having received and viewed a copy of your May 9, 2007, memorandum – not the attachment. Thus, you did not provide specific evidence that the University provided the female student and her attorney with the attachment which includes the students' names and grades.

Since you do not have standing regarding your allegation, there is no basis for this Office to assist you regarding your concern. If you have questions regarding this matter, you may contact me. The name, address, and telephone number of the Office are:

Family Policy Compliance Office
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