(b)(6)

MAR 8 2011

Dear (b)(6)

This is to respond to your September 9, 2011, complaint form to this office in which you allege that rights afforded you under the Family Educational Rights and Privacy Act (FERPA) were violated by the (b)(6) (District) when it disclosed certain information about you to third parties without your prior consent. Specifically, you state that (b)(6) a school board member in the District, improperly disclosed on March 25, 2010, to The Independent, a local newspaper, the fact that you enrolled your children in the (b)(6) school open enrollment program. You appear to believe that (b)(6) learned that information from your children's education records and state that he disclosed that information without your prior written consent. You provided this office with a copy of the school's student directory which includes your directory information.

FERPA is a Federal law that gives parents the right to have access to their child'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. The term "education records" is defined as those records directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed is a copy of a FERPA fact sheet for additional information.

Under FERPA, a school may not generally disclose personally identifiable information from the education records of a student to a third party unless the school has received prior written consent from the parent. One exception to this general prohibition permits the nonconsensual disclosure of "directory information" that has been appropriately designated as "directory information." FERPA defines directory information as information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information could include information such as name, address, telephone listing, electronic mail address, major field of study, dates of attendance and the most recent educational agency or institution attended, among other items. Based on the information you provided this office, the District identifies both student and parent name, address, telephone, and email address as directory information. You have not indicated that you have opted out your or your child's information from being disclosed as directory information. Accordingly, the District would be permitted to share directory information to third parties, including school officials, without your prior written consent.

Also, FERPA applies to the disclosure of tangible records and of information derived from tangible records. FERPA does not protect the confidentiality of information in general, and, therefore, does not apply to the disclosure of information derived from a source other than education records, even if education records exist which contain that information. As a general rule, information that is obtained through personal knowledge or observation, and not from an education record, is not protected from disclosure under FERPA. You have not provided sufficient information for this office to determine that an improper disclosure from your children's education records occurred. After examining the information you provided to this office, it is not apparent that the information allegedly disclosed came from your children's education records, but may have been learned through personal knowledge, observation, or another public source. In many instances, information such as address is available in public records (i.e. local and State real estate records), which would probably include the school district for a particular address. Accordingly, no basis exists for this office to investigate your allegation that the District disclosed information from your children's education records.

I trust that the above information is helpful in explaining the scope and limitations of FERPA as it relates to your concerns.

Sincerely,

Bernard Cieplak
Program Analyst
Family Policy Compliance Office