(b)(6)

MAR 2 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 January 24, 2011. In that complaint, you are alleging that (b)(6) (University) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

This Office investigates certain complaints alleging a 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. 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 the Office reasonable cause to believe that a FERPA violation occurred. In order for the Office to initiate an investigation, a complaint must contain

such specific allegations. In this case, we will not open an investigation into your complaint because it is not clear that the information allegedly disclosed by the University is not appropriately designated directory information.

The provisions of 34 CFR Part 99, Subpart D of the FERPA regulations 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.

One such exception permits an institution to disclose information that has been appropriately designated as directory information. "Directory information" is defined as information included in the education records of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes, but is not limited to, a student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate, full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended.

A school may disclose directory information to a third party without consent if it has given public notice of the types of information it has designated as directory information, a student's right to refuse to let the school designate any or all of that information about the student as directory information, and the period of time within which a student has to notify the school in writing that he or she does not want any or all those types of information about the student designated as directory information. A school is required to provide its notice regarding directory information annually to students in attendance.

If you wish this Office to further consider your allegation, we need to receive additional information from you. It appears you are alleging that the University nonconsensually disclosed to your employer, (b)(6), that "you were enrolled in the (b)(6) program and performing an internship as a requirement for this program." Please provide us with evidence that you opted out of directory information at the University or evidence that the University does not designate student name, dates of attendance, enrollment status, and major field of study as directory information. Please provide us with the requested information along with the name and address of the president of the College. We will review the information you submit and take any appropriate action.

If you have questions regarding this matter, you may contact me as follows:

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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

Enclosures