(b)(6)

MAR 15 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 November 4, 2010. In that complaint, you are alleging that the (b)(6) District) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. Specifically, you allege that the District did not provide you with copies of the education records of your daughter, (b)(6) Student), in response to your freedom of information law request (FOIL).

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. 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.

The provisions of 34 CFR Part 99, Subpart B detail the right of inspection and review of education records. Generally, FERPA requires that educational agencies and institutions provide parents or eligible students with access to education records within a reasonable period of time, but not more than 45 days after the request. A school is required by FERPA to provide a parent with copies of education records, or make other arrangements, if a failure to do so would effectively prevent the parent from obtaining access to the records. A case in point would be a situation in which the parent does not live within commuting distance of the school. Based on the information in your letter, it appears that you live within commuting distance of the student's school. Therefore, the school is required by FERPA to provide you with an opportunity to inspect and review the Student's education records. The school is not required by FERPA to provide you with copies of the records, though it is permitted to do so. However, any arrangement between you and the District regarding copies of education records and any fee charged by the District for such copies are outside the scope of FERPA.

In order to exercise your right under FERPA, I suggest you write again to the appropriate official at the school and request, under FERPA, an opportunity to inspect and review the specific education records to which you are seeking access. Though it is not required, you may want to include a copy of this letter along with your request. If the school fails to provide you an opportunity to inspect and review the requested education records or fails to contact you within 45 days, you may write to this Office again. At such time, please provide us with a dated copy of your request to the School, any response from the School, and a completed copy of the enclosed complaint form. 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,

Kathleen Wolan
Program Analyst
Family Policy Compliance Office

Enclosure