MAY 09 2011

(b)(6)

Dear (b)(6)

This is in response to your November 5, 2010, facsimile to this office relative to (b)(6) (b)(6) (District) and the Family Educational Rights and Privacy Act (FERPA). You explained that some parents of children in the District are concerned that the District has improperly disclosed student education records to the public and the press. As you know, we administer FERPA, a Federal law that pertains to education records.

FERPA generally requires that an educational agency or institution obtain written consent before disclosing education records or personally identifiable information from education records. 34 CFR 99.30 and 99.31. FERPA defines "education records" as:

> those records, files, documents, and other materials, which (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

This Office investigates those timely complaints containing specific allegations of fact giving reasonable cause to believe that a violation of FERPA has occurred. In this regard, FERPA vests the rights it affords with the parent or eligible student. See 20 U.S.C. § 1232g(b)(1) and (d). The statute does not provide for these rights to be vested in a third party that has not suffered an alleged violation. Thus, an individual must have "standing," i.e., have suffered an alleged violation, in order to file a complaint under FERPA.

Additionally, 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.

Due to the passage of time and in order to assist you with regard to your allegation, we need you to complete the enclosed complaint forms separately, including the name of your child, and to receive responses to the following questions if you wish to pursue your allegation:

1. Are you a parent of a child from the District and as such, have standing with regard to your FERPA allegation?
2. Was the source of the alleged disclosure to the public and the press by the District from your child's education records as defined in FERPA?

We will review the information you provide and take any necessary action.

Sincerely,

Ingrid Brault
Management and Program Analyst
Family Policy Compliance Office