(b)(6)

MAY 17 2011

Dear (b)(6)

This is in response to your July 15, 2010, facsimile and letter to this office that we received on July 18, 2010, in which you allege that (b)(6) (District) violated your rights under the Family Educational Rights and Privacy Act (FERPA) when it denied you access to your son's education records. As you know, we administer FERPA, a Federal law that pertains to education records.

You explained that on June 3, 2010, you made a request to the District for copies of all of your son's education records. While it appears from the information you provided that the District responded to you within 45 days of your request, you provided this office a list of documents that you allege the District has not provided to you. The reason that the District has given you for not providing access to certain records on your list was that the District could not locate those records because they were either missing or destroyed.

FERPA is a Federal law that affords parents the right to have access to their children'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. Education records are those records that are directly related to a student and that are maintained by an educational agency or institution or a party acting for the agency or institution.

FERPA requires that schools comply with a parent's request for access to his or her children's education records within 45 days of receipt of the request. A school is *not* required by FERPA to provide copies of education records to a parent unless a failure to do so would effectively prevent the parent from exercising the right to inspect and review the records. For example, a school could be required to provide copies, or make other arrangements, if the parent does not live within commuting distance of the school.

FERPA does not require schools to create or maintain education records, or to re-create lost or destroyed education records. Additionally, a school may not destroy education records if there is an outstanding request to inspect and review the records. FERPA does not otherwise address the destruction of education records by a school.

This office does not have the staff resources to review voluminous documents to determine whether specific allegations of a school's failure to comply with FERPA are included. Rather, it is the responsibility of the complainant to clearly and succinctly state his or her allegation and to only provide relevant supporting evidence.

It appears from the information you provided that the District has provided you copies of your child's education records in compliance with your request. However, due to the passage of time and in order to assist you with regard to your allegation, we need to receive responses to the following questions if you wish to pursue your allegation:

1. Are the records that you wish to view related to services that your child may receive under Part B of the Individuals with Disabilities Education Act (IDEA)? If yes, the concerns you have raised may be better addressed by IDEA because you might have additional rights beyond FERPA. Although IDEA is a Federal law, it is administered by the states. For further information regarding IDEA, you may contact:

   Mr. Gene Lenz
   Deputy Associate Commissioner for Special Education
   Department of Special Education
   Texas Education Agency
   W.B. Travis Building
   1701 N. Congress Avenue, Room 6-127
   Austin, Texas 78701-1494
   Telephone: (512) 463-9414

2. If not, please inform us whether the records you sought were maintained at the time you make your June 2 request?
3. Were those specific records deemed missing or destroyed?
4. If destroyed, on what approximate date were they destroyed? If destroyed, was that after the District received your follow up request and prior to your getting access?
5. If there are specific documents that you know the District maintains, but refuses to provide you, please describe the record and the reason given by the District as to why it won't provide it to you.

Please complete the enclosed complaint form and mail it to this office within 3 weeks of receipt of this letter so that we can review it. Please succinctly complete the enclosed complaint form including responses to the above questions. We will review the information you provide and take any necessary action.

As indicated above, this office cannot assist you with regard to missing documents. Record maintenance issues need to be addressed at the local school or State level. Finally, the other issues that you raise are not addressed by FERPA. We are returning your documents to you in case you need them for future reference.

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office