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Dear (b)(6)

This is in response to recent telephone conversation with a member of my staff. Specifically, you ask for information that explains how the Family Educational Rights and Privacy Act (FERPA) applies to providing parents access to education records, specifically to their children's test results. This Office administers FERPA, a Federal law that pertains to education records.

Under FERPA, 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. Generally, any record that contains any personally identifiable information, such as name, student identification number, or other information which would link the document to the individual, is an education record protected under FERPA. Any test protocols or test question booklets which do not contain information directly related to the student are not education records under FERPA.

Under FERPA, a school must provide a parent with an opportunity to inspect and review his or her child's education records within 45 days following its receipt of a request. A school is required 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. While a school is required to comply within 45 days with each individual request for access, a school is not required by FERPA to honor standing requests, to provide immediate access to records, or to send out grades to parents at the end of marking periods.

As noted above, FERPA does not require disclosure of *copies* of education records. Even if an education record were part of a copyrighted secure test, a copy of the test need not be provided in order to comply with a parent's request for access so long as the parent is given the opportunity to inspect and review the record. FERPA also requires that a school respond to reasonable requests for explanations and interpretations of education records, such as answer sheets not accompanied by the question booklets. Thus, a school district should, upon request, provide an opportunity for a parent to review the education records and provide any explanations and interpretations necessary. This would include the interpretation of standardized test results.

Finally, FERPA does not require schools to create or maintain education records, or to re-create lost or destroyed education records. Also, FERPA would not require a school district to honor a request that education records not be destroyed. However, a school may not destroy education records if there is an outstanding request to inspect and review the records.

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

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure