(b)(6)

MAY 17 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 15, 2011. In that complaint, you are alleging that (b)(6) (College) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99. You allege that the College failed to comply with your request for access to certain of your education records.

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.

This Office's enforcement process is intended to work cooperatively with colleges and other postsecondary institutions to achieve their voluntary compliance with FERPA's requirements. Following a review of the allegations and evidence submitted by a complainant, this Office may initiate an administrative investigation by sending the college and the complainant a notification letter about the allegation, and requesting a written response from the college concerning the allegation. If this Office then determines that a college is in violation of FERPA, the college and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the college 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 college

take punitive or disciplinary action against an individual as the result of a FERPA violation. This Office closes its investigation when the college 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 this Office reasonable cause to believe that a FERPA violation occurred. In order for this Office to initiate an investigation, a complaint must contain such specific allegations.

The term "education records" is defined as those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. 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 access to education records within a reasonable period of time, but not more than 45 days after the request.

A school is not required to provide a student with copies of education records unless a failure to do so would effectively prevent the student from obtaining access to the records. A case in point would be a situation in which the student 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 College (generally thought of as 50 miles one-way). Therefore, the College is required by FERPA to provide you with an opportunity to inspect and review your education records. The College is not required to provide you with copies of the records, though it is permitted to do so.

A school is not generally required by FERPA to maintain particular education records or education records that contain specific information. Rather, a school is required to provide certain privacy protections for those education records that the school selects to maintain. Also, unless there is an outstanding request by a student to inspect and review education records, the school may destroy such records without notice to the student.

Under FERPA, a school is not required to provide a student access to information that is not maintained or to create education records in response to a student's request. Accordingly, a school is not required to provide a student with updates on his or her progress in a course unless such information already exists in the form of an education record.

Based on the information in your January 15 letter, it appears you are requesting that the College provide you access to your "financial aid file" and "a financial aid calculation worksheet or whatever methodology the [C]ollege uses to calculate the financial aid award process." Based on the e-mail exchanges between you and school officials at the College enclosed with your letter, it appears that these officials have provided you with the names and numbers of school

officials you contact to set up an appointment to inspect and review your education records. In order to exercise your right to inspect and review your financial aid records, I suggest you contact one of these officials to set appointment.

With regard to obtaining access to a financial aid calculation worksheet or other methodology used by the College to calculate information regarding the process of awarding financial aid, please review the FERPA definition of education records above. If the College maintains a so-called calculation worksheet regarding how it calculated financial aid information regarding you, such worksheet would be directly related you and a part of your education records to which you would have the right to inspect and review. If you believe the College maintains such information, again I suggest you contact the College to set up an appointment to inspect and review your financial aid records, including the calculation worksheet. However, FERPA does not address your obtaining access to the College's policies and procedures regarding award of financial aid that are not directly related to you.

If you have questions regarding this matter, you may contact me. The name, address, and telephone number of the Office are:

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Sincerely,

Ricky C. Norment
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