(b)(6)

MAY 25 2011

Dear (b)(6)

This is in response to your February 23, 2011, letter concerning your complaint under the Family Educational Rights and Privacy Act (FERPA) against the Bureau for Private Postsecondary Education (BPPE), a State agency in (b)(6) This Office, under the authority of § 99.60 of the FERPA regulations (copy enclosed), investigates complaints in accordance with procedures outlined in § 99.65.

You state that you attended Masters Institute from 1994 to 1996 and graduated with an A.S. Degree in Systems Administration/Database Management. In March of 1991 the school abruptly closed. You further state that you have learned that your school records are in the custody of BPPE. On October 1, 2010, you called BPPE and requested that they send you copies of your transcripts from Masters Institute because you need them to continue your education toward a B.S. degree and get credit for your A.S Degree. You state that BPPE provided you a transcript that is not the same as the old copies that you have, and that the transcript did not include a number of items of information about you that BPPE should have provided. You further state that BPPE refused to correct your transcripts, and that BPPE said it would be fraud for BPPE to make the changes you have requested.

FERPA is a Federal law that is administered by the Family Policy Compliance Office (Office) in the U.S. Department of Education (Department). 20 U.S.C. § 1232g; 34 CFR Part 99. FERPA applies to all educational agencies and institutions (e.g., schools) that receive funding under any program administered by the Department. Once a student reaches 18 years of age or attends a postsecondary institution, he or she becomes an "eligible student," and all rights formerly given to parents under FERPA transfer to the student. The eligible student has the right to have access to his or her education records, the right to seek to have the records amended, the right to have control over the disclosure of personally identifiable information from the records (except in certain circumstances specified in the FERPA regulations), and the right to file a complaint with the Department. The term "education records" is defined as those records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. See the enclosed guidance document for eligible students.

FERPA applies to an educational institution to which funds have been made available under any program administered by the Secretary of Education if the educational institution provides education services or instruction, or both, to students. Thus, we assume for purposes of this discussion that FERPA applied to Masters Institute until such time that it no longer provided either educational services or instruction or both to students and closed.

The phrase "State and local educational *authorities*" is not defined in FERPA or elsewhere in Federal law or regulations. However, this office has generally interpreted the term to mean an agency or other party with educational expertise and experience that is responsible for and authorized under State or local law to regulate, plan, coordinate, advise, supervise or evaluate elementary, secondary, or postsecondary education programs, services, agencies, or institutions in the State. We have not reviewed BPPE's statutory authority to determine if indeed BPPE qualifies as a "State educational authority" under FERPA. However, assuming it is an agency with educational expertise and experience that is responsible for and authorized under State law to regulate, plan, coordinate, advise, supervise and evaluate postsecondary education programs, services, agencies, and institutions in the State, it would generally be considered an educational authority under FERPA.

Please note that, under FERPA, a State educational authority is generally required to provide an eligible student with access to his or her education records. It is not, however, required to disclose education records upon the student's request, nor is it required to provide a student with an opportunity to seek to amend the records.

I regret that we cannot further assist you with your concerns. I suggest that you continue to try to work with BPPE regarding these issues.

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosures