(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 February March 7, 2011. In that complaint, you are alleging that the (b)(6) (District) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 20 U.S.C. Part 99. Your son, (b)(6) (Student), attends (b)(6) in the District.

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 schools and districts to achieve their voluntary compliance with FERPA's requirements. Following a review of the evidence and allegations submitted by a complainant, we may initiate an administrative investigation by sending the district and the complainant a notification letter about the allegation, and requesting a written response from the district concerning the allegation. If we then determine that a district is in violation of FERPA, the district and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the district 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 district take punitive or disciplinary action against an individual school official as the result of a FERPA violation. We close the investigation when the district 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. 34 CFR § 99.3 "Education records." The provisions of 34 CFR Part 99, Subpart D specify the conditions under which information can be disclosed from student education records. Generally, FERPA prohibits disclosure of personally identifiable information from student education records unless the parent or eligible student has provided specific prior written signed consent for the disclosure. FERPA allows for limited disclosure of such records without consent under limited circumstances to specific persons and under specific conditions as detailed at 34 CFR § 99.31.

Specifically it appears you are alleging that (b)(6), director of special education for the District, violated FERPA when she improperly disclosed information from the Student's education records to (b)(6) (Other Parent) and (b)(6), the Other Parent's attorney at the (b)(6) Legal Rights Service. The information disclosed relates to special education services received by the Student from the (b)(6) Autism Spectrum Disorders. You became aware of the disclosure on February 10, 2011, when you received an e-mail from the Other Parent.

If you wish this office to further consider your allegation, we need to receive additional information from you. Please provide us with the name and address of the superintendent of the District and verify that we have accurately stated your allegation. We will review the information you submit and take any appropriate action.

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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U.S. Department of Education
400 Maryland Avenue, SW
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(202) 260-3887

Sincerely,

Ricky C. Norment
Program Analyst
Family Policy Compliance Office