(b)(6)

DEC - 8 2009

Dear (b)(6)

This is in response to your July 8, 2008, letter and documents to this Office in which you allege that rights afforded you under the Family Educational Rights and Privacy Act (FERPA) were violated by the (b)(6) (District) when it did not comply with your written request to access the education records of your son (b)(6) (Student). Specifically, you requested in your May 14, 2008, email to (b)(6), special education director in the District, that she provide you with "data collected to date that supports progress" relating to the special education services received by your son. This Office administers FERPA, which addresses issues pertaining to education records.

FERPA is a Federal law that gives parents the right to have access to their 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. The term "education records" is defined as those records directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed is a copy of a FERPA fact sheet.

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 of the receipt of a request. A school is required to provide the parent with copies of education records or make other arrangements when a failure to do so would effectively prevent the student from obtaining access to the education records. A case in point would be a situation in which the parent does not live within commuting distance of the school. Based on the information in your correspondence, it appears that you live within commuting distance to the District. As such, it is required only to provide you with an opportunity to inspect and review the Student's education records, although it is permitted to provide you with copies.

In accordance with FERPA, a school generally is not required to maintain particular education records or education records that contain specific information. Rather, a school is required to provide certain privacy protections relative to those records it selects to maintain. Nor does FERPA require schools to create or to re-create lost or destroyed education records. It may destroy education records without notice to the parent, unless there is an outstanding request from the parent to inspect and review such records.

This Office investigates those timely complaints that contain specific allegations of fact giving reasonable cause to believe that a school has failed to comply with FERPA. A timely complaint is defined as one that is submitted to this Office within 180 days of the date that the complainant knew or reasonably should have known of the alleged failure to comply with FERPA. Please note that this Office does not have the staff resources to review voluminous materials to determine whether such documents contain an alleged violation of FERPA. It is the responsibility of the complainant to clearly state his or her allegation and to provide this Office only relevant supporting documentation. For your convenience, we are returning the documents you forwarded to this Office in order that you may use them in the future.

You have not provided specific allegations of fact for this Office to initiate an investigation into your allegations that the District failed to provide you access to your son's education records. Specifically, you have not provided specific evidence for this Office to determine that the District maintained "data collected to date that supports progress" relating to your son's special services provided by the District. As stated above, the District is not required by FERPA to provide you with copies of your son's education records. Accordingly, no basis exists for this Office to investigate your allegation that the District denied you access to the Student's education records.

I trust this information is helpful to address the scope and limitations of FERPA as it relates to your concern.

Sincerely,

Paul Gammill
Director
Family Policy Compliance Office

Enclosures