(b)(6)

DEC 15 2009

Dear (b)(6)

This is in response to your allegation that the (b)(6) System (District) improperly disclosed information from the education records of your son, (b)(6) IV (Student), to a third party. This Office administers the Family Educational Rights and Privacy Act (FERPA) which addresses issues that pertain to education records.

Specifically, you allege that (b)(6) disclosed information from the Student's education records to (b)(6) (Other Parent), the parent of another student in the District, in a May 19, 2008, telephone conversation. In your complaint, you state:

> . . . within this conversation, (b)(6) began to disclose [the Student's] personal information with [the Other Parent] . . . (b)(6) discussed [the Student's] grades, his tardiness, his absences and also the fact that [the District is] retaining him [in his current grade] with all the information being verbatim. (b)(6) (b)(6) also discussed the meeting I had with her, the principal (b)(6) and (b)(6) and the outcome of that meeting as well. . . .
>
> (b)(6) then continued to ask the [Other Parent] to please not inform me that (b)(6) had discussed any of this information with her in regards to [the Student's] academics. . . .
>
> [The Other Parent] has gotten a copy of her telephone records to also verify that this telephone call took place. . . .
>
> [The Other Parent] gave me permission to disclose her name and contact telephone numbers for whomever to contact her if needed. . . .

FERPA is a Federal law that gives parents the right to have access to their children's 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" means 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.

Under FERPA, a school may not generally disclose personally identifiable information from a minor student's education records to a third party unless the student's parent has provided written consent. There are several exceptions to FERPA's general prohibition against nonconsensual disclosure of education records. However, none of these exceptions appear to apply to this situation.

This Office's enforcement process is intended to work cooperatively with schools to achieve their voluntary compliance with FERPA's requirements. Following a review of the evidence and allegations submitted by a complainant, this Office may initiate an administrative investigation by sending the school and the complainant a notification letter about the allegation, and requesting a written response from the school concerning the allegation. If this Office then determines that a school is in violation of FERPA, the school and the complainant are so advised by a letter of finding which contains corrective actions to be taken by the school 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 school take punitive or disciplinary action against an individual as the result of a FERPA violation. This Office closes its investigation when the school has completed the required corrective actions.

In addition to conducting investigations, this Office also provides technical assistance to educational agencies and institutions to ensure that they are in compliance or come into compliance with FERPA. Enclosed is our letter of technical assistance to (b)(6) superintendent of the District.

I trust that the above information and described action are responsive to your request.

Sincerely,

Paul Gammill
Director
Family Policy Compliance Office

Enclosure