(b)(6)

JAN 08 2008

Dear (b)(6)

This is in response to your January 14, 2008, letter to this Office in which you allege that The (b)(6) (College) violated the Family Educational Rights and Privacy Act (FERPA) when it disclosed information from your education records to your mother, Nancy Wu. You also allege that (b)(6) dean of students, disclosed "incorrect information" to your professor for a physics course. This Office administers FERPA which addresses issues that pertain to education records. Issues concerning a school official failing to follow-up on actions stated to an eligible student or his or her parent or displaying unprofessional behavior with regard to an eligible student or his or her parent, as you have raised them, are not addressed by FERPA and will not be discussed in this letter.

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. When a student turns 18 years of age or attends a postsecondary institution, the student becomes an "eligible student," and all rights under FERPA transfer from the parent to the student. 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. Enclosed for you information are a FERPA fact sheet and guidance document.

Under FERPA, a school may not generally disclose personally identifiable information from an eligible student's education records to a third party unless the student has provided written consent. However, FERPA does not protect the confidentiality of information in general and, therefore, does not apply to disclosure of information derived from a source other than education records, even if education records exist which contain that information. Rather, FERPA protects information derived from education records from improper disclosure. As a general rule, information obtained through personal knowledge, observation, or hearsay, and not from an education record, is not protected from disclosure under FERPA. Therefore, the alleged disclosure of "incorrect information" by would not be addressed by FERPA since it was not a disclosure of information from education records.

Also, there are several exceptions to FERPA's general prohibition against the nonconsensual disclosure of education records. One such exception permits the nonconsensual disclosure of education records to "school officials" with a "legitimate educational interest." You should review the school official exception to FERPA's prior written consent requirement (top of page three in the guidance document) for additional information regarding this exception.

Another exception to FERPA's prior written consent requirement permits the nonconsensual disclosure of education records to the parents of a "dependent student." If either parent claims the student as a dependent on his or her most recent income tax statement, the school is permitted by FERPA to nonconsensually disclose education records to either parent. If either of your parents claims you as a dependent on his or her most recent income tax statement, the school is permitted by FERPA to disclose information from your education records (including your grades) to both of your parents.

I trust that the above information is helpful in explaining the scope and limitations of FERPA as it relates to your concerns.

Sincerely,

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosures