(b)(6)

SEP 17 2009

Dear (b)(6):

This is to respond to your October 15, 2008, complaint form to this Office in which you allege that the (b)(6) (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA) when it disclosed information from your child's education records to a third party without your prior written consent. Specifically, you allege that (b)(6) assistant superintendent at the District, disclosed information to your physician in response to an email. 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 that are 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. Enclosed is a copy of a FERPA fact sheet.

Under FERPA, a school may not generally disclose personally identifiable information from the education records of a student to a third party unless the parent has provided written consent. FERPA specifically exempts from the prior written consent requirement those disclosures of education records that are made to other school officials, such as teachers, within the educational agency or institution whom the agency or institution has determined to have a legitimate educational interest. A school official is a person employed or contracted by the school such as an administrator, supervisor, instructor, support staff, physician, or board member. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibilities.

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. It is not clear from the information you provided whether (b)(6) was acting as a school official or member of your child's IEP team at the time of the disclosure. Please verify whether (b)(6) was your child's personal physician or whether he was employed by or representing the District in June 2008. Please provide this information within 2 weeks after you receive this letter. Such information is necessary in order for this Office to further consider your allegation and proceed with any investigation.

Should you have any questions in regard to this matter, you may reach me at 202-260-3887.

Sincerely,

Bernard Cieplak
Program Analyst
Family Policy Compliance Office