(b)(6)

FEB - 2 2010

Dear (b)(6)

This is in response to your January 20, 2010, letter, addressed to Secretary Duncan, in which you indicate that you filed a complaint with the Office for Civil Rights (OCR) and with the Family Policy Compliance Office (Office) between May 2008 and July 6, 2009. Specifically, you state that you sought relief from this Department "for the inequity and irresponsible actions of the management of (b)(6) High School, which my children were forced to endure for the entirety of the 2007-2008 school year, but none was granted." Your letter was referred to this Office for response because we administer the Family Educational Rights and Privacy Act (FERPA).

FERPA (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. FERPA affords 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 their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

FERPA applies to educational agencies and institutions that receive Federal funds from programs administered by the U.S. Department of Education. Because private and parochial schools at the elementary and secondary levels do not generally receive funds (grants, subgrants, or cooperative agreements) from the Department, FERPA does not apply to these schools. A private school that has students and teachers who receive services from a local or state education agency funded by a Departmental program does not bring the school under the coverage of FERPA. For example, a number of Departmental programs serve private school students and teachers (as distinct from schools). In those cases, however, the recipient of the financial assistance is not the private school (it receives no money), but the state or local public educational agency. As the FERPA regulations state, the law does not apply to a school "solely because students attending that ... institution receive non-monetary benefits under a program" administered by the Department (34 CFR § 99.1(b)). Private/independent schools that do **not** receive Federal funds from programs administered by the Department and, thus, are not subject to FERPA may set their own policies regarding student records (pursuant to any State regulations/laws).

We have searched our database and do not find that you have filed a complaint under FERPA with this Office. Possibly you discussed this matter with one of our staff members and were provided a response that FERPA did not apply to your children's school. We are enclosing a guidance document to provide you with information about FERPA and a complaint form in case your children's school is not a private or religious school. However, please note that if (b)(6) High School is a private or religious school, which appears to be the case, FERPA would not apply.

I trust that this adequately explains the scope and limitations of FERPA as it pertains to your concerns. With regard to any concerns that you have under laws administered by OCR, please note that you may contact OCR's regional office. Below is the contact information for that office:

Chicago Office
Office for Civil Rights
U.S. Department of Education
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, Illinois 60661

Telephone: 312-730-1560
Fax: 312-730-1576; TDD: 877-521-2172
Email: OCR.Chicago@ed.gov

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosures