(b)(6)

FEB 1 2 2010

Dear (b)(6)

This is in response to your March 3, 2009, letter to this Office in which you ask for our assistance in helping you to obtain access to your special education records from the (b)(6) (District). Specifically, you state in your letter:

> . . . On January 21, 2009, I filed an application for Student Records Services. A few weeks later that agency responded with an incomplete record. The principal (b)(6) here at the (b)(6) Correctional Center then contacted the (b)(6) Student Records Office himself. The agency told him that they would not look for my special education records because their files do not go back that far. . . .

This Office administers the Family Educational Rights and Privacy Act (FERPA) which addresses issues that pertain to education records.

FERPA is a Federal law that gives eligible students 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" 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 your information are a FERPA fact sheet and guidance document.

Under FERPA, a school is required to provide a student with access to his or her education records within 45 days of the receipt of a request. However, a school is not generally required by FERPA to maintain particular education records or education records that contain specific information. Rather, if a school selects to maintain education records, those records are subject to the privacy protections of FERPA.

Also, a school is not required by FERPA to provide information that is not maintained or to create education records in response to a student's request. For example, a school is not required to provide a student with updates on his or her progress in school, unless such information already exists in the form of an education record.

Based on the information in your letter, it appears that the District does not maintain the special education records to which you are seeking access. Unless you have some evidence that the District does maintain such education records, there is no basis for this Office to assist you.

There are some additional requirements for the education records of students who receive special education services under the Individuals with Disabilities Education Act (Part B). Although Part B is a Federal statute, it is administered by the States. If you wish to contact the organization responsible for administering Part B in Illinois, the address and telephone phone number is as follows:

Director of Special Education
Illinois State Board of Education
100 N First Street, Room S-493
Springfield, Illinois 62777-001
Telephone 217-782-4870

While Part B was not enacted until 1972, it may be that officials at the office of the Director of Special Education may be able to provide you with some guidance regarding your concern of moving forward with your education.

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

Sincerely,

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosures