(b)(6)

FEB 12 2010

This is in response to your March 2, 2009, letter to this Office in which you allege that the (b)(6) (School) violated your rights under the Family Educational Rights and Privacy Act (FERPA) when it disclosed information from the education records of your son to a third party without your prior written consent. Specifically, it appears you are alleging that the School violated FERPA when (b)(6) assistant principal at the School, disclosed information regarding the Student's "grades, office referrals, and his behavior problems" to (b)(6) a volunteer with an after school wrestling program. This Office administers FERPA which addresses issues that pertain to education records. Issues regarding the Student's Individualized Education Program (IEP), 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. 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 may not generally disclose personally identifiable information from a minor student's education record to a third party unless the student's parent has provided written consent. However, there are several exceptions to FERPA's general prohibition against nonconsensual disclosure of education records.

One of the exceptions to the prior written consent requirement in FERPA allows "school officials," including teachers, within a school to obtain access to education records provided the school has determined that they have "legitimate educational interest" in the information. Although the term "school official" is not defined in the statute or regulations, this Office has interpreted the term broadly to include a teacher; administrator, board member, support or clerical staff; attorney; nurse and health staff; counselor; human resources staff; information systems specialist; volunteer; and attorney.

A school may disclose education records without consent to a "school official" under this exception only if the school has first determined that the official has a "legitimate educational interest" in obtaining access to the information for the school. A school that allows school

officials to obtain access to education records under this exception must include in its annual notification of FERPA rights a specification of its criteria for determining who constitutes a "school official" and what constitutes "legitimate educational interests." A school official generally has a legitimate educational interest if the official needs access to information in education records to fulfill his or her professional responsibility.

If you wish this Office to further consider your allegation, we need to receive additional information from you. Please note that, as stated above, a school may designate a "volunteer" as a school official and nonconsensually disclose information from education records to the volunteer when he or she has a legitimate educational interest. Please inform us whether the after school wrestling program is an officially recognized sport or activity sponsored by the School or school district, and please provide us with a copy of the school district's annual notification where the terms "school official" and "legitimate educational interest" are defined. We will review the information you submit and take any appropriate action.

With regard to your issues concerning the Student's IEP, you may want to contact the Office responsible for administering Part B of the Individuals with Disabilities Education Act (Part B) in your State as follows:

Stephanie Petska
P.O. Box 7841
Madison, WI 53707-7841
Telephone: 608-267-3746

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