(b)(6)

AUG 16 2010

Dear (b)(6)

This is to respond to your May 24, 2010, letter/complaint form sent to the U.S. Department of Education, Family Policy Compliance Office (FPCO) in which you express concerns that the (b)(6) (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. Your son (b)(6) (Student) attends school in the District. FPCO administers FERPA, which affords parents and eligible students certain rights pertaining to education records.

FERPA provides that an educational agency or institution that receives U.S. Department of Education funds may not have a policy or practice of denying parents or eligible students the right to:

- Inspect and review education records (34 CFR § 99.10);
- Seek to amend education records (34 CFR §§ 99.20, 99.21, and 99.22); or
- Consent to the disclosure of personally identifiable information from education records except as specified by law (34 CFR §§ 99.30 and 99.31).

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 for your information is a FERPA guidance document. You may also find more information regarding FERPA on our website at: http://www2.ed.gov/policy/gen/guid/fpco/index.html.

You assert that the above educational agency or institution did not comply with one of the following provisions of FERPA:

_X__ **FERPA's access provision.** The school did not provide you access to your child's or your education records within 45 days of your request.

_X__ **FERPA's disclosure provision.** The school improperly disclosed information from your child's or your education records.

_X__ **FERPA's amendment provision.** The school has refused to amend your child's or your education records per your request and not provided you with an opportunity for a hearing on the disputed education records.

Based on the information you provided FPCO, we are unable to investigate your allegation(s) for the following reason(s):

____ Your complaint is untimely. A complaint must be received by FPCO within 180 days of the date of the alleged violation or of the date which the complainant knew or reasonably should have known of the alleged violation. (See highlighted portion of the enclosed guidance.)

____ While FERPA requires that a parent or eligible student be provided an opportunity to inspect and review education records, the law would only require that a school provide a copy of the records or make other arrangements for inspection of the records if certain circumstances exist. (See highlighted portion of the enclosed guidance.)

____ FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See highlighted portion of the enclosed guidance.)

_X__ Requests to modify a grade, opinions in education records, and other substantive decisions are not subject to FERPA's amendment provision.

Each of the five allegations in your letter are addressed below.

1. Failure to adhere to District's own Board Policy regarding Parental Challenge of student records.

Please see the part of the guidance document regarding "Amendment of Education Records" on page two. FERPA generally requires a school to meet the procedures summarized in the guidance document. In order to exercise your right to seek to amend inaccurately recorded information in the Student's education records, you should write to the appropriate official in the District and request amendment of the inaccurately recorded information. Along with your request, you should provide the District with evidence to support your belief that such information is inaccurately recorded. Please note that the District is not required by FERPA to respond to a request by a parent to amend information (such as a grade or substantive decision made by a school) that is not amendable under FERPA.

If the school does not amend the inaccurately recorded information as requested, or fails to get back to you within a reasonable period of time, you may contact this Office. At such time, please provide us with a dated copy of your request to the school (including your supporting evidence), any response from the school, and a completed copy of the enclosed complaint form.

2. Failure to inform Parents of the destruction of testing protocols that were being challenged by parent at time of destruction.

A test protocol is not generally an education record unless it includes the student's name or other personally identifying information and the student's answers to the questions in the test protocol. Also, a school may destroy education records without notice to the parent unless there is an outstanding request by the parent to inspect and review such records. Unless you requested an opportunity to inspect and review a test protocol that was also the Student's education record, and the District destroyed the test protocol/education record before it provided you an opportunity to inspect and review it, it does not appear that a violation of FERPA occurred.

3. Failure to resolve matters of the challenge of invalid assessments.

It is not completely clear what you mean by this allegation. As you may know, there are some additional requirements under Part B of the Individuals with Disabilities Education Act (Part B) for the education records of students who receive special education services. I have included contact information for the organization responsible for administering Part B in your State in case you wish to contact them to see if this concern is addressed by Part B.

4. Failure to remove, acknowledge or respond to parental challenge of student records.

It appears that this allegation is related to your allegation in number two above. Please see our response for allegation number two.

5. Failure to include all records upon previous records requests at the time of request.

Please see the part of the guidance document regarding "Access to Education Records" beginning on page one. Based on the information in your letter, it appears that this concern may have been addressed by the (b)(6) Department of Education in 2009. However, if you believe there are additional education records to which you have not been provided access, I suggest you write again to the District and request an opportunity to inspect and review the education records to which you are still seeking access.

If the District fails to provide you an opportunity to inspect and review the requested education records, or fails to contact you within 45 days of your request, you may write to this Office again. At such time, please provide us with a dated copy of your request to the District, any response from the District, and a completed copy of the enclosed complaint form.

6. District divulged my son's name (who is a minor), our family's first and last name to the public and the nature of our complaint of special education concerns in the minutes of the School Board Meeting . . . When I [G]oogle the (b)(6) School District, (b)(6) [Student's

name]" his name and information is disclosed to everyone and anyone. Our request for the removal of this information was ignored by the District.

You provided us with a copy of information that apparently appears at the District's Website regarding the school board meeting. Please see the part of the guidance document regarding "directory information" beginning near the bottom of page three. Based on our analysis, unless you opted out of directory information, it does not appear that any information from the Student's education records is disclosed at the Website. However, if you believe differently, please provide us with the specific information from the Student's education records that you believe is improperly disclosed at the Website. We will review the information you submit and take any appropriate action.

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