

(b)(6)

Dear (b)(6)

We are writing to inform you that the Family Policy Compliance Office (FPCO or this Office) is not initiating an investigation with regard to a complaint you filed with us on May 6, 2009. In that complaint you alleged that (b)(6) (School) violated the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

This Office investigates certain complaints alleging violation of FERPA if it:

- (a) Is filed by the “parent” of a minor student at a public elementary or secondary school or an “eligible student” who is at least 18 years of age or who attends or attended a postsecondary institution with FERPA rights in the education records which are the subject of the complaint;
- (b) Is filed within 180 days of the alleged violation or within 180 days after the complainant knew or reasonably should have known about the violation; and
- (c) Contains specific allegations of fact giving reasonable cause to believe that a FERPA violation has occurred.

The FERPA regulations (34 CFR Part 99) can be found on our website at <http://www.ed.gov/policy/gen/reg/ferpa/index.html>. Enclosed is a copy of a guidance document about FERPA that may be useful to you.

In this case, we will not open an investigation into your complaint for several reasons. Initially, it is not clear that your complaint meets the FERPA timeliness requirement described in (b), above. We are unable to determine whether you had seen or handled the transcript at any time between the time you requested the transcript from the School (February 2008) and when you initially questioned the School concerning the information on the transcript (April 2009). As such, we are unable to determine whether your complaint is timely.

However, even if your complaint is deemed to have been timely received, Sections 99.20 – 99.22 of the FERPA regulations describe the process for requesting amendment of education records. Generally, parents or eligible students have the right to request that a school correct education records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a hearing. After the hearing, if the school decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information. As such, a school is not required to follow the requirements of the FERPA amendment process when the item is not amendable under FERPA. For example, a school is not required to afford you a hearing to seek to amend a grade or its decision on how credits will be earned.

With respect to the facts alleged, it does not appear that you have completed the School's process for consideration of amendment requests. This must be completed before FPCO will consider a submitted complaint. Additionally, it is not clear whether the information you seek to amend on your transcript from the School is protected under FERPA's amendment procedure. The FERPA amendment procedure may be used to challenge facts that are inaccurately recorded. However, it may not be used to challenge a grade, an opinion, or a substantive decision made by a school about a student. FERPA requires only that schools conform to fair recordkeeping practices. It does not provide a means to override the accepted standards and procedures for making academic assessments, disciplinary rulings, or placement determinations. The FERPA right to seek amendment of education records which contain inaccurate information cannot be used to challenge a grade or a school's decision concerning degree requirements, unless that information has been inaccurately recorded.

If you have questions regarding this matter, you may contact me. The name, address, and telephone number of the Office are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-8520
(202) 260-3887

Sincerely,

Kathleen M. Wolan
Program Analyst
Family Policy Compliance Office

Enclosure