



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

(b)(6)

Dear

(b)(6)

This is to respond to your June 7, 2010, letter to this Office in which you allege that (b)(6) Independent School District (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99.

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

- ☐ FERPA's access provision.
- ☒ FERPA's disclosure provision.
- ☒ FERPA's amendment provision.

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).
- 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 and complaint form.

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

- ☐ Your complaint is untimely. A complaint must be received by this Office 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.)
- X   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   You have not provided sufficient information for this Office to determine that a violation of FERPA may have occurred. (See enclosed guidance.)
- X   Requests to modify a grade, opinions included in education records, and other substantive decisions are not subject to FERPA's amendment provision. (See highlighted portion of the enclosed guidance.)

It appears you are alleging that the District violated FERPA when (b)(6), high school instructional leader for the District, discussed a discipline infraction committed by your son, a student in the District (Student), at a meeting of the Board of Trustees (Board) held to discuss your Level III complaint. You believed that this "closed session" of the Board was being held to discuss only an "academic issue and the failure of teachers to provide work while [the Student] was absent from school, suspended and/or in In-School Suspension."

Based on information in your letter, it appears that the discipline infraction was related to the issues up for discussion at the closed session of the Board, and that the school officials at the closed session would generally have a legitimate educational interest in obtaining access to information in the Student's education records. It appears you invited (b)(6) (b)(6) to attend the closed session to present your complaint. By inviting (b)(6) to the closed session, you provided the school with implied consent to disclose information from the Student's education records to her. It is not clear whether you invited (b)(6) garrison commander at Fort Hood, to the closed session or what his position is relative to the District and your complaint. However, if you invited him to the closed session, you also gave the District implied consent to disclose information from education records to him.

It appears you are also alleging that the District violated FERPA when it disclosed information from the Student's education records to (b)(6). If you wish this Office to further consider this allegation, we need to receive additional information from you. Please inform us whether (b)(6) is a school official in the District, and if so, why you believe he does not have a legitimate educational interest in obtaining access to information in the Student's education records. Generally, a school official has a legitimate educational interest if he or she needs access to information in education records to carry out his or her responsibilities.

Also, please provide us with the date or approximate date the District allegedly disclosed information from the Student's education records to (b)(6) or the date you learned of the disclosure, and the name of the school officials who made the disclosure (if that is known). Also, provide us with the specific nature of the information disclosed to (b)(6) which included the Student's grades. 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,

(b)(6)

Ricky C. Norment  
Program Analyst  
Family Policy Compliance Office

Enclosures