(b)(6)

MAR 15 2011

Dear (b)(6)

This is to respond to your June 9, 2010, letter to this Office in which you allege 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.

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

____ FERPA's access provision.

__X_ 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 are 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.)

_____ 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.)

Under FERPA, a school may not generally disclose personally identifiable information from a minor student's education records 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 such exception permits a school to nonconsensually disclose information from a student's education records in connection with a health or safety emergency. A school may nonconsensually disclose education records under this exception if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

Specifically, it appears you are alleging that the District disclosed personally identifiable information from the education record of your sons to the local police department without your prior written consent. Further it appears the specific information disclosed were "essay-style tests" which your sons' had taken.

Attached is a December 1, 2009, article which appeared at (b)(6) (your local News 10 television station Website) concerning the increased presence of police officers at (b)(6) Junior Senior High School (School) regarding a written threat that was found on the school campus. Based on the article, the threat was a hand written note in which someone claimed they would come into the school with a gun. The article appeared around the time of the alleged November 29, 2010, disclosure of your sons' education records to the local police.

It appears that the District may have disclosed your sons' written-style essay tests (along with the essay tests of all the other students at the School) to the local police in an effort to determine whether one of the students wrote the threatening note. Please inform us, to the best of your knowledge, whether this is accurate.

I trust this information adequately explains the scope and limitations of FERPA as it pertains to your concerns.

Sincerely,

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosures