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FEB - 9 2012

This is to respond to your January 23, 2012, correspondence to Secretary Duncan regarding the Family Educational Rights and Privacy Act (FERPA). Your correspondence was forwarded to this office for response because we administer FERPA.

FERPA is a Federal law that provides parents the right to have access to their child'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" is defined as those records directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed is a copy of a FERPA fact sheet.

You state in your letter that you sent a letter to us regarding a FERPA complaint, which you enclosed with your letter to the Secretary. You also state that you inquired in December as to the status of the complaint. However, this office does not have a record of having received the October 1, 2011, letter of complaint from you. We apologize for any inconvenience this may have caused you. In order to be responsive to the concerns you raise, we are addressing those issues below. We are also providing you with a guidance document on FERPA, as well as a complaint form. If, after a review of the explanation and the information we have provided, you still believe your rights under FERPA have been violated, you may fill out the complaint form and return it to us.

Under FERPA, parents must provide written consent before personally identifiable information is disclosed from their children's education records, unless one of the exceptions to this general consent rule applies. However, FERPA does not protect the confidentiality of information in general; rather, FERPA prohibits the improper disclosure of information derived from education records. Therefore, if a school official disclosed information about a student that is a result of the official's personal knowledge, observation, or hearsay, then that information would not be protected under FERPA. It appears that the information that you allege your child's teacher disclosed was based on personal observation and was not derived from your son's education records. Accordingly, no basis exists for this office to investigate your allegation that a teacher disclosed information from your child's education records.

Page 2

(b)(6)

I trust this helps explain the scope and limitations of FERPA as it relates to your inquiry.

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosures