

Mr. Christopher Farmer
Superintendent
Triton Regional School District
112 Elm Street
Byfield, Massachusetts 01922

JUN 04 2012

Complaint No. (b)(6)
Family Educational Rights
and Privacy Act

Dear Mr. Farmer:

This is to inform you of the finding in the complaint filed against Triton Regional School District (District) by (b)(6) (Parents). The Parents alleged that the District violated the Family Educational Rights and Privacy Act (FERPA) when it failed to provide them access to a science common assessment test taken by their son, (b)(6) (Student), in response to their requests.

Specifically, the Parents allege that the Student's father sent an April 16, 2010, e-mail to (b)(6) the Student's science teacher, requesting access to the Student's science common assessment test after the Parents learned from the Student that (b)(6) planned to shred all of the students' science common assessment tests. Also, the Parents alleged that the Student's mother made an April 16 phone call to the Student's school asking that the Student's science common assessment test not be shredded until after the Parents obtained access to it.

By letter dated March 29, 2011, this office informed you of the Parents' allegation and asked that the District provide a written response. You responded by letter dated May 26, 2011. In your response, you state in relevant part:

... 3. Students are given their grade for the test and the test itself is destroyed. ...

6. The Student's grade for that specific test contributed to the calculation of a trimester grade that does become part of the student's transcript, and thus the "Student Record." ...

I do not believe that the test that was given ever became part of the student's record, and therefore, the complaint is without foundation. ...

On July 18, 2011, (b)(6) of my staff spoke to you by telephone. During that conversation, you informed Mr. Norment that to the best of your knowledge the science common assessment test at issue was destroyed on April 16, 2010, before the

Parents' April 16 telephone call and e-mail to the District requesting access to the test.

By letter dated August 4, 2011, this office invited the Parents to provide us with any evidence they might have indicating that the science common assessment test was not destroyed prior to their April 16, 2010, telephone call and e-mail. The Parents did not provide us with any additional information.

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. 20 U.S.C. § 1232g(a)(4); 34 CFR § 99.3 "Education records." A test protocol is not generally an education record unless it includes the student's name or other personally identifiable information and the student's answers to the questions in the test protocol. Based on your conversation with Mr. Norment, it appears the science common assessment test included the Student's name and the Student's answers to the questions in the test. As such, Mr. Norment informed you that the science common assessment test would be an education records under FERPA.

A school is required by FERPA to provide a parent with an opportunity to inspect and review his or her child's education records within 45 days of the receipt of a request. 34 CFR § 99.10. However, a school is not generally required by FERPA to maintain particular education records or education records that contain specific information. Also, a school may destroy education records without notice to a parent as long as there is no outstanding request by the parent to inspect and review such records.

Based on the evidence that we have, it appears that the School destroyed the science common assessment test before the Parents' telephone call and e-mail to the District requesting access to the test. Therefore, this office finds that the District did not violate FERPA as alleged by the Parents. The Parents will be informed of our finding by copy of this letter.

Thank you for your cooperation with regard to the resolution of this complaint.

Sincerely,

Dale King
Director
Family Policy Compliance Office

cc: Parents