

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

March 31, 2020

[Letter to Parent]

Dear [Parent]:

This letter is in response to your June 20, 2019, complaint filed with Student Privacy Policy Office (Office or SPPO), formerly the Family Policy Compliance Office, in which you allege that the Los Angeles County Office of Education violated your rights under the Family Educational Rights and Privacy Act (FERPA) with regard to the education records of your child, [Student]. Due to the volume of correspondence received by this Office and limited resources, we are currently not able to respond to all complaints in as timely a manner as we would prefer. We recognize the delay in our responding to you regarding your complaint and apologize for any inconvenience this may have caused you.

FERPA is a federal law that protects the privacy of students' education records. The term "education records" is defined under FERPA, with certain exclusions, as those records that are directly related to a student and which are maintained by an educational agency or institution (e.g., a school or postsecondary institution), or by a party acting for the agency or institution, to which funds have been made available under any program administered by the Secretary of Education. FERPA affords parents certain rights with regard to their child's education records. When a child reaches 18 years of age or begins attending a postsecondary institution at any age, he or she becomes an "eligible student," and all of the rights under FERPA once afforded the parent transfer to the student. These rights include your right to inspect and review your child's education records, the right to seek to have the education records amended, the right to have some control over the disclosure of personally identifiable information from the education records, and the right to file a written complaint with SPPO regarding an alleged violation of FERPA. Under FERPA, a school is prohibited from disclosing personally identifiable information from your child's education records, without consent, unless the disclosure meets an exception to FERPA's general consent requirement.

SPPO reviews and processes written complaints of alleged violations of FERPA. This Office investigates written complaints filed by a parent alleging a violation of FERPA only if the complaint:

- Is filed by a parent who maintains FERPA rights over the education records which are the subject of the complaint;
- Is submitted to the Office within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonably should have known of the alleged violation; and,
- Contains specific allegations of fact giving reasonable cause to believe that a violation of FERPA has occurred.

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-2110

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Under FERPA's enforcement provisions, this Office investigates timely complaints containing sufficient allegation of fact that would lead us to believe that a violation of FERPA may have occurred. In reaching this determination, SPPO reviews the information provided by the parent, and considers all relevant statutory and regulatory requirements and the Department's interpretation of those requirements, when reaching a decision as to whether there are sufficient facts of a potential violation of FERPA that supports our conducting a formal investigation of a complaint.

You allege in your complaint that the Los Angeles County Office of Education violated the rights afforded you under FERPA when it disclosed personally identifiable information contained in your child's education records without first obtaining your prior written consent. Preliminarily, please note that a complaint under FERPA must be filed against your local school district, not a regional education agency such as the Los Angeles County Office of Education. However, notwithstanding that fact, based on the information you provided, your complaint does not give this Office reasonable cause to believe that there has been a violation of FERPA.

The FERPA regulations specify the conditions under which personally identifiable information can be disclosed from student education records without the written consent of the parent. One of the exceptions to the prior written consent provision permits a school to disclose education records to officials of another school where the student seeks or intends to enroll. A school that discloses education records under this provision must make a reasonable attempt to notify the parent of the disclosure, unless the disclosure is initiated by the parent, or the school's annual notification of rights under FERPA includes a notice that it forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll. Accordingly, under this exception, a school has the discretion to disclose academic, disciplinary, or any other information from the student's education records to schools where a student seeks or intends to enroll. However, the parent does not, under FERPA, have the right to prevent a school which a student previously attended from transferring the student's education records or from communicating information about a student to the student's new school.

Further, this Office interprets FERPA to permit nonconsensual disclosure of education records, or personally identifiable information from education records, in connection with educational placements under Part B of the Individuals with Disabilities Education Act (IDEA). That is, an educational agency or institution that is subject to FERPA may disclose a student's education records to a school in its efforts to seek an appropriate educational placement for a student under Part B of IDEA.

Any concerns that you have concerning this matter should be addressed to your school district's special education director or to the special education director at your State department of education. Although a Federal law overseen by the U.S. Department of Education's Office of Special Education Programs (OSEP), IDEA is administered by the States. Therefore, you may want to contact the agency responsible for Part B of IDEA in your State. In addition, each state has resources to help parents to participate effectively in their children's education and development. Contact information is available at https://sites.ed.gov/idea/contacts/#bs_tab151430435553773. In addition, you may find the contact information for the corresponding OSEP Customer Service representative for your State at: <http://www2.ed.gov/policy/speced/guid/idea/monitor/state-contact-list.html>.

Thus, based on the facts you provided, your complaint does not give this Office reasonable cause to believe that there has been a violation of FERPA as the disclosure appears to be permissible under

FERPA's seeks or intends to enroll exception to written consent. Therefore, this Office is dismissing your complaint.

For more information regarding your rights under FERPA please review the [Guidance for Parents](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/for-parents.pdf) at https://studentprivacy.ed.gov/sites/default/files/resource_document/file/for-parents.pdf. You also will find more information regarding [FERPA](https://studentprivacy.ed.gov/) on our website at: <https://studentprivacy.ed.gov/>. We regret that we are unable to assist you with your concerns. Again, please accept our sincerest apology for the delay in our response.

Sincerely,

/s/

Frank E. Miller
Family Policy Compliance Office