



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF MANAGEMENT

February 27, 2015

[REDACTED]

Dear [REDACTED]

This is in response to your August 18, 2014, complaint form to this office in which you allege that [REDACTED] (District) failed to provide you access to all of the education records of your daughter, [REDACTED] (Student), in response to your requests. This office administers the Family Educational Rights and Privacy Act (FERPA) which addresses issues that pertain to education records. We apologize for the delay in responding to your correspondence.

FERPA is a Federal law that gives parents the right to have access to their children'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 that contain information 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.

Under FERPA, a school must 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. A school is required to provide a parent with copies of education records, or make other arrangements, if a failure to do so would effectively prevent the parent from obtaining access to the records. A case in point would be a situation in which the parent does not live within commuting distance of the school. Based on the information in your letter, it appears that you live within commuting distance of the Student's school. Therefore, the school is required by FERPA to provide you with an opportunity to inspect and review the Student's education records. The school is not required to provide you with copies of the records, though it is permitted to do so.

Also, please note that a school is not generally required by FERPA to maintain particular education records or education records that contain specific information. Rather, a school is required to provide certain privacy protections for those education records that the school selects to maintain. Also, unless there is an outstanding request by a parent to inspect and review education records, the school may destroy such records without notice to the parent. A school is not required to provide access to information that is not maintained or to create education records in response to a parent's request. Accordingly, a school is not required to provide a parent with updates on his or her child's progress in a course unless such information already exists in the form of an education record.

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

This office investigates those timely complaints that contain specific allegations of fact giving reasonable cause to believe that a violation of FERPA has occurred. If you wish this office to further consider your allegation, we need to receive additional information from you. As indicated in your complaint form, the District has provided you with some of the Student's education records. In your complaint you state that it did not provide you with the following records:

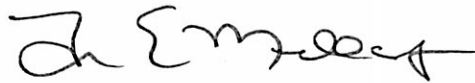
- Copies of notes from the times [the Student] was with her assigned counselor ([REDACTED])
- Any anecdotal notes, correspondence, conference forms, or disciplinary reports that pertain to [the Student] from both teachers and administrators.

As stated above, a school is not generally required to maintain particular education records, nor is it generally required to provide a parent with copies. Please provide us with any information you may have to indicate that the records listed above existed at the time of your request for access to them. For example, please explain how you know that the counselor took notes regarding the Student, and/or please explain why you believe the Student's teachers and administrators maintain disciplinary reports related to the Student. Such information would support the assertion that the District maintained the records you are seeking at the time of your request. We will review the information you submit and take any appropriate action.

As a matter of note, this office does not conduct investigations of a school's failure to comply with a State open records request. However, based on the information submitted with your complaint form, the District informed you that you did not need to submit an open records request in order to obtain access to the Student's education records. Thus, it appears that the District was responding to your request for education records under FERPA.

I trust that the above information is helpful in explaining the scope and limitations of FERPA as it relates to your concerns.

Sincerely,



*D*Dale King
Director
Family Policy Compliance Office