



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF MANAGEMENT

May 1, 2015

(b)(6)

Dear (b)(6)

This is in response to your April 1, 2014, correspondence to this office in which you allege that rights afforded you under the Family Educational Rights and Privacy Act (FERPA) were violated by the (b)(6) (District) when it improperly disclosed information about other students to you and because it maintains information in your child's education records which you believe is inaccurate. We apologize for the delay in responding to your letter. This office administers FERPA, which addresses issues pertaining to education records.

FERPA is a Federal law that gives 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 the FERPA fact sheet.

This office will not be opening an investigation regarding the alleged unauthorized disclosure of education records of students other than those of your child. That is because FERPA vests the rights it affords with the parent who has suffered an alleged violation and does not provide for these rights to be vested in a third party that has not suffered an alleged violation. Thus, an individual must have "standing," i.e., be a parent who has suffered an alleged violation, in order to file a complaint under FERPA. Because you do not have standing with respect to the other students whose records were disclosed to you, there is no basis on which this office can consider the allegation. For additional information about FERPA and its requirements, you may wish to refer to this office's website at: <http://www2.ed.gov/policy/gen/guid/fpco/index.html>.

With regard to the amendment of education records, FERPA affords parents the opportunity to seek amendment of their child's education records which they believe contain information that is inaccurate or misleading. While a school is not required to amend a record in accordance with a parent's request, it is required to consider the request for amendment of an education record, to inform the parent of its decision, and if the request is denied, to advise the parent of the right to a hearing on the matter. If, as a result of a hearing, a school decides not to amend the record, then the parent has the right to insert a statement in the record setting forth his or her views. That statement must remain with the record for as long as the record is maintained.

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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 right is not unlimited, however, and a school is not required by FERPA to afford a student the right to seek to change substantive decisions made by school officials, such as grades or other evaluations of a student. This fact is indicated in the legislative history of FERPA. The primary source of legislative history regarding FERPA is contained in the "Joint Statement in Explanation of Buckley/Pell Amendment," Volume 120 of the Congressional Record, pages 39862-39866. The Joint Statement states that FERPA was "not intended to overturn established standards and procedures for the challenge of substantive decisions made by an educational institution." (Emphasis added.) FERPA was intended to require only that educational agencies and institutions conform to fair recordkeeping practices and not to override the accepted standards and procedures for making academic assessments, disciplinary rulings, or placement determinations. Thus, while FERPA affords students the right to seek to amend education records which contain inaccurate information, this right cannot be used to challenge a grade, an individual's opinion, or a substantive decision, such as disability placement or services.

While it appears that you may be seeking to amend certain inaccurate information in your child's education records, you have not provided this office with sufficient information for this office to determine that a violation occurred and it is not clear that you have requested the school to amend those records. In order to exercise your rights under FERPA, I suggest that you write to the District and specify which of your child's records are inaccurate, your explanation regarding how they are inaccurate, and how you believe his records should be corrected. Should the District fail to comply with FERPA as discussed above, you may wish to write to this office again, and include a completed complaint form (see enclosed) along with any relevant correspondence to the following address:

Family Policy Compliance Office
U. S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-8520

We will review the information you provide and take any necessary action.

Additionally, some of the issues you raise may be better addressed under Part B of the Individuals with Disabilities Education Act (IDEA). Although a Federal law overseen by the Department's Office of Special Education Programs (OSEP), IDEA is administered by the States. Therefore, I suggest you contact Ms. Gretchen Cagle, Director, Office of Special Education, Mississippi State Department of Education at 601-359-3513. You may also contact the corresponding OSEP State contact for Part B of IDEA, Mr. Josiah Willey at 202-245-6247.

Sincerely,



h Dale King
Director
Family Policy Compliance Office

Enclosure