

AUG 22 2012

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Dear (b)(6)

This is to respond to your February 8, 2012, letter 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 disclosed your son's education records to third parties without your prior written consent. Specifically, you state that (b)(6) (b)(6) principal; (b)(6) teacher; (b)(6) social worker; (b)(6) psychologist; who are school officials in the District, improperly disclosed your son's Individualized Education Program (IEP) and certain other education records to (b)(6) (b)(6) principal in the (b)(6) School District. 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 guidance document for parents.

FERPA generally requires prior written consent for the disclosure of education records, except in certain limited circumstances specified by statute. 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 or eligible student of the disclosure, unless the disclosure is initiated by the parent or eligible student, 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. Please note that the District includes in its annual notice of FERPA 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.

Therefore, a school may release a portion or all of a student's education records, under the "seeks or intends" to enroll exception in FERPA, at its discretion. 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.

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This office interprets FERPA to permit nonconsensual disclosure of education records, or personally identifiable information from education records, in connection with educational placements under the Individuals with Disabilities Education Act (Part B). 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. Based on the information you provided, the District is permitted to share your son's education records without your consent to officials in the (b)(6) School District as discussed above. Accordingly, no basis exists for this office to investigate your allegation that the District improperly disclosed certain of your son's education records without your consent.

I trust this information is helpful to explain the scope and limitations of FERPA as it relates to your concern.

Sincerely,

Dale King
Director
Family Policy Compliance Office

Enclosure