

January 23, 2007

Via Email and USPS

LeRoy S. Rooker
Director
Family Policy Compliance Office
U S Dept. of Education
400 Maryland Ave., S. W.
Washington, D. C. 20202-4605

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RE: Violation of 34 CFR 99.31(a)(6)(ii)(B) by
iParadigms, LLC

Dear Mr. Rooker:

I represent a number of members of the McLean High School community in McLean, Virginia [McLean High School is part of the Fairfax County Public Schools]. I understand that your office investigates and rules on violations of 34 CFR 99.31(a)(6)(ii)(B) and the corresponding section of the statute, namely 20 U. S. C. 1232g(b)(4)(B). If this is incorrect, please provide me with the correct office name and address and I will direct my inquiry to it.

My understanding of 34 CFR 99.31 is that a school may disclose personally identifiable information from an educational record of a student to an outside contractor doing a study seeking to improve instruction “only if”:

“(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; **and**

(B) The **information is destroyed when no longer needed for the purposes for which the study was conducted**”. [emphasis added]

I also understand that personally identifiable information includes the student’s name, a personal identifier, or other information that would make the student’s identify easily traceable.

I believe that there has been a violation of 34 CFR 99.31(a)(6)(ii)(B) by a contractor for the Fairfax County Public Schools (“FCPS”). The contractor’s name and address are iParadigms, LLC, 1624 Franklin St., 7th Floor, Oakland, CA 94612.

The contractor iParadigms markets what it styles as anti-plagiarism software under the trademark Turnitin, and which is accessible through the website Turnitin.com. McLean High, as well as a number of other high schools in FCPS, require students (the vast majority of them minors) to submit unpublished manuscripts to Turnitin.com before they will be accepted by an instructor for grading. In order to access the site, the student is required by the site to agree to a contract of adhesion, and to input his/her name, email

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address, and oftentimes other information. The student's name and/or other information that would make the student's identify easily traceable usually appear on the submitted unpublished manuscript itself too. Especially for students concerned about iParadigms compromising of their copyright rights, the manuscript will at least contain the copyright notice of the student.

The review/study done by Turnitin.com ostensibly identifies if portions of the unpublished manuscript submitted have been plagiarized, and if portions have been they are highlighted and the ostensible source also identified. A report of this review/study is submitted by the student along with his/her manuscript to the instructor after which the instructor grades it. The review/study by iParadigms is supposedly to improve instruction, for example supposedly by advising students if they did not cite sources properly so that they can learn to cite sources properly.

There are two separate violations of 34 CFR 99.31(a)(6)(ii) by iParadigms' implementation of its system.

First, iParadigms does make personal information available to others outside its organization in violation of 34 CFR 99.31(a)(6)(ii)(A) without consent of minor students or their parents. According to page 20 of the User Guide on the Turnitin.com web site (copy enclosed with the USPS copy of this letter), if another customer of iParadigms anywhere in the world (Turnitin.com claims it has hundreds of institutional clients in dozens of countries) wants a copy of a FCPS student's manuscript that has been identified in a review for that outside organization, an individual in the outside organization sends an email to iParadigms asking for the complete manuscript. iParadigms then sends an email to the instructor of the FCPS student with the same request. If the instructor of the FCPS student who authored the manuscript agrees, the complete manuscript is sent. There is no requirement that the student or her/his parents consent, just the instructor. As indicated above, the manuscript usually has personal information on it, and in some circumstances the entire manuscript may be very personal with highly sensitive information.

Second, iParadigms archives ALL manuscripts submitted to it by FCPS students, and refuses not to archive them. This is despite the fact that the founder of Turnitin.com has said on public occasions in 2006 that it is possible to not archive any or all documents, and iParadigms' contract with the University of Maryland requires purging of archived documents after a short period of time.

It is only by archiving the students manuscripts that others outside FCPS would become aware of the manuscripts. The archiving occurs even after the manuscripts have been graded, and the manuscripts are retained in the iParadigms data base forever. Even though the review/study by iParadigms was completed prior to grading to allegedly "improve instruction", the archived copy of the manuscript is not "destroyed when no

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longer needed for the purposes for which the study was conducted” even after grading, or for that matter even if the contract with FCPS terminates, or at any other time in the foreseeable future. This is a clear violation of 34 CFR 99.31(a)(6)(ii)(B).

In view of the clear violation of 34 CFR 99.31(a)(6)(ii)(B) by iParadigms, I hereby request that – pursuant to 34 CFR 99.31(a)(6)(iii) – your office determine that iParadigms not be allowed access to any personally identifiable information (especially unpublished student manuscripts) from FCPS students for at least five years.

If there is any further background, documentary, or other information you need from me in order to make the determination under 34 CFR 99.31(a)(6)(iii), please let me know and I will provide it.

Sincerely,

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