

2006

## Military Recruitment in Schools Gets Personal

Suzanne E. Blaz

Follow this and additional works at: <http://lawcommons.luc.edu/pilr>

 Part of the [Education Law Commons](#), and the [Military, War, and Peace Commons](#)

---

### Recommended Citation

Suzanne E. Blaz, *Military Recruitment in Schools Gets Personal*, 12 Pub. Interest L. Rptr. 17 (2006).  
Available at: <http://lawcommons.luc.edu/pilr/vol12/iss1/3>

This Feature is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Public Interest Law Reporter by an authorized administrator of LAW eCommons. For more information, please contact [law-library@luc.edu](mailto:law-library@luc.edu).

# MILITARY RECRUITMENT IN SCHOOLS GETS PERSONAL

*By* SUZANNE E. BLAZ

A controversial provision in the No Child Left Behind (NCLB) Act<sup>1</sup> that allows military recruiters unfettered access to students' private information is being hotly debated as the law comes up for renewal next year.<sup>2</sup>

The Department of Education determined that "all but 5 percent of the nation's 22,000 high schools [have] agree[d] to hand over the directory information"<sup>3</sup> to military recruiters and allowed them access to the school campus. This is a dramatic increase from previous years, such as in 1999, when the Pentagon reported that on 19,228 occasions, high schools denied military recruiters access to students.<sup>4</sup> The catalyst for this change is the NCLB recruiting provision, which threatens funding cuts if school districts fail to

allow military recruiters access to students and fail to turn over students' directory listing information.<sup>5</sup>

Parents and students may opt-out of having their contact information entered into the recruiters' database.<sup>6</sup> Several groups have organized to raise awareness about this option. On September 13, 2006, Michigan Peaceworks' Youth Activist Network distributed opt-out forms as part of their "Youth Opt-Out Day."<sup>7</sup> The Leave My Child Alone Coalition has suggested establishing a national, "Do Not Recruit List"<sup>8</sup> in order to keep the Pentagon from pressuring children to enlist in the military, because they believe such a decision should be made privately, by the family. The ACLU has also been involved extensively in educating families about the controversial NCLB provision. New York's ACLU Executive Director, Donna Liegerman, sums up many parents' sentiments on the recruitment provision by stating, "We send our children to school for an education, not to become military targets."<sup>9</sup>

The Government's justification for passing such legislation is that military recruiters have not been given the same opportunity in high school and college to reach potential recruits as other employers.<sup>10</sup> On October 9, 2002, Secretary of Education Rod Paige and Secretary of Defense Donald Rumsfeld released a statement to school districts nationwide stating that "[s]tudent directory information will be used specifically for armed services recruiting purposes and for informing young people of scholarship opportunities. For some of our students, this may be the best opportunity they have to get a college education."<sup>11</sup>

Military recruitment costs the national government nearly \$2.5 billion each year.<sup>12</sup> Though the recruitment process is not new in high schools,<sup>13</sup> the avenues provided for obtaining children's personal information by the NCLB have raised a number of objections. Many of those who oppose the provision believe that having a student's contact information distributed abuses their right to privacy, despite the fact that the NCLB is not the only provision releasing student information to recruiters,<sup>14</sup> and puts pressure on them to make a difficult decision.<sup>15</sup> Parent-Teacher Associations (PTAs) have objected to the military recruiters being in schools, stating that school is not the place for military recruitment.<sup>16</sup> PTAs believe that "[r]ecruiters may not present a realistic picture of military life."<sup>17</sup>

Another issue raised by critics of the provision is that most parents and students do not receive adequate notice of the opt-out option.<sup>18</sup> As long as parents are notified once, even if it is in an obscure manner, the information will be released.<sup>19</sup> The release is required by all public schools who wish to continue receiving federal funding; the schools first must provide the notification to parents, though the Act gives no guidance on when or how notification should be provided, leaving school districts to use varying methods.<sup>20</sup> The provision excludes military schools and religious schools with non-violent teachings.<sup>21</sup>

One study conducted by the ACLU found that parents were not well-informed about the provision because of short deadlines and lack of notice, and suggested that schools provide parents with opt-out forms directly, rather than making them find one themselves.<sup>22</sup> Generally, in districts where parents were notified of opt-out forms many parents completed them.<sup>23</sup> Meanwhile, in neighboring districts where parents did not receive notification, no opt-out forms were completed.<sup>24</sup>

Legislators, such as Sally Lieber (D-Mountain View, CA), are beginning recognize that families are “outraged and shocked by the release of their children’s information to military recruiters” despite not receiving adequate notice and information about opting-out.<sup>25</sup> Lieber authored a bill called the Student & Family Privacy Protection Act of 2006, which proposed requiring all school districts to uniformly provide students with opt-out information directly on the emergency contact forms that are required from parents.<sup>26</sup> The bill was approved by the Assembly, but vetoed by Governor Arnold Schwarzenegger because he stated that each individual school should determine how it wishes to notify parents and students of the opt-out provision.<sup>27</sup>

However, some schools are not only giving students little notice of their right to opt-out, but are also penalizing students for making this choice.<sup>28</sup> In Duval County in Florida, one school penalized students who opted-out of the recruiting list by preventing them from participating in the publication of the school yearbook, sports programs, and honor roll acknowledgment: experiences that may be critical to a student’s development and self-esteem in school.<sup>29</sup> Governmental threats of cutting funds to schools whose budgets are already meager if they do not comply with the program have been met with significant disfavor. Some state legislatures have called for the promulgation of legislation that would permit schools to opt-out of the NCLB provision without losing fund-

ing.<sup>30</sup> Even if students are able to opt-out of the provision, the military is using other ways to lure children into enlistment by way of flashy television ads, brochures, recruiting ships, trucks, and vans that canvas neighborhoods, and even an Army computer game to get kids interested.<sup>31</sup>

Despite these criticisms, U.S. Education Secretary Margaret Spellings claims that the NCLB Act is close to perfect, stating that it needs little or no change.<sup>32</sup> Indeed, from the government's perspective, the provision is working, as it has helped the military reach its enlistment goals despite increasing animosity toward the war in Iraq. Although they missed their goals last year,<sup>33</sup> the military reports that it has enlisted 62,505 recruits through July 2006, and is optimistic about meeting its goal of 80,000 for the 2006 budget year.<sup>34</sup>

Opponents to the NCLB military recruitment provision allege that recruitment numbers have increased, despite a lack of students willing to enlist in recent years, because recruiters have become more aggressive and less selective in order to meet their goal of recruiting two people a month.<sup>35</sup> Indeed, reports have surfaced of recruiters threatening would-be recruits, falsifying data, encouraging people to lie about psychological problems, and lying to recruits in order to get them enlist; this led the Army to suspend recruiting for one day in 2005 to discuss ethical concerns.<sup>36</sup> Some recruiters have spoken out about how flawed the recruiting system is, stating that they have enlisted kids who do not meet basic physical, moral, and educational standards, ultimately prioritizing the numbers rather than the children themselves and whether the military was the appropriate place for them.<sup>37</sup>

Along with the NCLB provision, the ability of the military to collect data on potential recruits was further expanded last year when the Department of Defense announced its own program to compile dossiers on high school students between the ages of sixteen and eighteen and all college students.<sup>38</sup> The department claims the purpose of this program is "to provide a single central facility . . . to compile, process and distribute files of individuals who meet age and minimum school requirements for military service."<sup>39</sup>

Barry Steinhardt, Director of the ACLU Technology and Liberty Project, responded to the Department of Defense project by stating that "[i]f the military is having trouble finding recruits, it must address the core sources of that problem; the solution is not to target our youth with marketing techniques centered

around the collection of ever-more detailed dossiers of personal information.<sup>40</sup>

The information collected under the Department of Defense program surpasses what recruiters had access to under the NCLB Act. Social Security numbers, grade-point averages, classes taken and email addresses may all be collected and used to track down potential military recruits.<sup>41</sup> Though law prevents the national government from collecting such data,<sup>42</sup> the department has contracted the Massachusetts-based company BeNow to compile such data.<sup>43</sup>

“The Government should not be able to evade the law and core American values by outsourcing the work to the private sector. This effort - problematic in any circumstances - is especially disturbing when it’s targeted at kids as young as 16,” stated Steinhardt.<sup>44</sup> The ACLU has filed suit on this issue, but an outcome is unlikely before the renewal of the NCLB Act.<sup>45</sup>

The group Leave My Child Alone calls this program “illegal” and provides opt-out forms for the Defense Department’s database.<sup>46</sup>

---

## NOTES

1 No Child Left Behind (NCLB) Act of 2001 § 9528, Pub. L. No. 107-110, 115 Stat. 1425, 1983-1984 (2002) (codified at 20 U.S.C. § 7908).

2 *National Education Association Delegates Set Sights on ‘No Child’ Rewrite*, U.S. Newswire, July 11, 2006; The NCLB Act is controversial not only for its military provisions, but also its educational requirements and policies. See National Education Association, *Urge Congress: Fix and Fund ‘No Child Left Behind’*, <http://www.nea.org/lac/esea/index.html>.

3 Kelly Davis, *A Few Good Students: School District gets cozy with local military recruiters*, San Diego Citybeat, available at <http://www.sdcitybeat.com/article.php?id=258> (last visited on Sept. 26, 2006) (discussing recruiting budgets and new recruiting problems caused by the NCLB Act).

4 Davis, *supra* note 3; but see MOTHER JONES, *Correction*, Jan. 1, 2003, Vol. 28, No. 1, at 12 (correcting Pentagon statement).

5 GreatSchools.net, *What the No Child Left Behind (NCLB) Law Means for Your Child*, <http://www.greatschools.net/cgi-bin/showarticle/az/205/improve/> (last visited on September 24, 2006).

6 NCLB, *supra* note 1.

7 Michigan Peaceworks’ Youth Activist Network, *SEPTEMBER 13TH IS YOUTH OPT-OUT DAY*, available at <http://www.mousemusings.com/weblogs/2006/09/michigan-peaceworks-announcements.html>.

8 Malcolm Harris, *Military targets students for recruitment*, *Campanile*, Oct. 7, 2005, [http://voice.paly.net/view\\_story.php?id=3312](http://voice.paly.net/view_story.php?id=3312).

9 *Id.*

10 Rod Paige & Donald Rumsfeld, *Questions and Answers - Access to High School Students and Information on Students by Military Recruiters*, <http://www.emsc.nysed.gov/deputy/Documents/military-att-2.html> (last visited on Sept. 24, 2006).

11 Rod Paige & Donald Rumsfeld, *Letter regarding military recruiter provision of NCLB act*, <http://www.emsc.nysed.gov/deputy/Documents/military-att-1.html> (last visited on Sept. 24, 2006).

12 Kelly Davis, *A Few Good Students: School District gets cozy with local military recruiters*, San Diego Citybeat, available at <http://www.sdcitybeat.com/article.php?id=258> (last visited on Sept. 24, 2006) (discussing recruiting budgets and new recruiting problems caused by the NCLB Act).

13 Laura Donnelly, *The Most Dangerous Game*, Tom Paine.com, Jan. 21, 2006, [http://www.tompaine.com/articles/20050601/the\\_most\\_dangerous\\_game.php](http://www.tompaine.com/articles/20050601/the_most_dangerous_game.php). Indeed, many states have required students to take Army placement tests over the years, but those tests are also seen by some as military recruitment that should not be allowed. See, e.g., Central Committee for Conscientious Objectors, *ASVAB: A Wolf in Sheep's Clothing*, <http://www.objector.org/before-you-enlist/asvab.html> (last visited on Sept. 26, 2006) (stating that the ASVAB (Armed Services Vocational Aptitude Battery), an "aptitude" test designed and administered by the US military, is taken by 1.25 million students in over 14,000 schools each year.) Interestingly, there is a growing trend to militarize middle schools across the U.S. and there has been an increase in creating Junior Reserve Officers' Training Corps (JROTC) with the largest amount of JROTC programs (45) to be located in Chicago. See Jennifer Wedekind, *The Children's Crusade*, In These Times.com, June 3, 2005, <http://www.inthesetimes.com/site/main/article/2136/>.

14 Hutchinson Amendment, Pub. L. No. 106-398, (codified at 10 U.S.C. § 503c) (2000) (provision commonly known as the Access to Secondary Schools Act).

15 ACLU News Release, *STUDENTS' RIGHTS TO WITHHOLD INFORMATION FROM MILITARY RECRUITERS NOT BEING ADEQUATELY PROTECTED, ACLU SURVEY FINDS*, Aug. 31, 2005, <http://www.riaclu.org/20050831.html>; but cf. Alfred J. Sciarrino, *From High School to Combat? No Child Left Behind!* 36 U. WEST. L.A. L. REV. 94 (2005) (arguing that concern that NCLB Act's § 9528 hurts students' privacy rights is misplaced).

16 Dean Paton, *Rift over recruiting at public high schools*, CHRISTIAN SCIENCE MONITOR, May 18, 2005, § USA, at 2.

17 KARIN SWANSON, *No Child Left. . . Unsolicited?*, ASNE High School Journalism Institute, <http://www.jmc.kent.edu/asne/maestro/Military/nclb.htm> (last visited on Sept. 24, 2006).

18 *Id.*

19 *Id.*

20 Resource Center for Nonviolence, *Opt Out - Guide To "No Child Left Behind,"* <http://www.rcnv.org/counterrecruit/optout/> (last visited on Sept. 24, 2006) (Schools are: a) Ignoring the requirement to notify parents/students of their right to opt-out; b) Slipping the opt-out in student handbooks or newsletters, where very few will see it; c) Sending letters home to parents; d) Putting the opt-out selection on the mandatory student Emergency Cards; e) Requiring a response from students (opt-in/opt-out); and f) Opt-in (student contact information not released without parental consent).

21 NCLB, *supra* note 1 at (c); see also Ken Anderson, *Military Schools Exempted from "No Child Left Behind" Requirements*, MAGIC CITY MORNING STAR, Jan. 26, 2004, available at [http://magic-city-news.com/article\\_888.shtml](http://magic-city-news.com/article_888.shtml) (citing military schools' exemption from the NCLB Act).

22 ACLU, *Rhode Island Schools Not Protecting Students' Rights to Withhold Information from Military Recruiters, ACLU Survey Finds*, Aug. 31, 2005, <http://www.aclu.org/privacy/youth/>

20047prs20050831.html. The varying policies on opt-out forms can be seen through a small study conducted of districts in Rhode Island, *available at* [http://www.riaclu.org/friendly/military\\_recruitment\\_chart.pdf.pdf](http://www.riaclu.org/friendly/military_recruitment_chart.pdf.pdf) (last visited on Sept. 24, 2006).

23 Tom Regan, *A struggle over military recruitment of students*, Christian Science Monitor.com, Dec. 28, 2005, *available at* <http://www.csmonitor.com/2005/1228/dailyUpdate.html> (reporting that after active notification of parents in Dayton, Ohio, more than 1500 parents signed opt-out forms).

24 *Id.*

25 E-mail from Sally J. Lieber, Assemblywoman for California's 22nd District, to Suzanne Blaz (Oct. 5, 2006, 16:11 CST) (on file with author).

26 Press Release, Assemblymember Sally Lieber, Bill To Preempt Military Recruiters Approved By State Assembly (May 10, 2006), <http://democrats.assembly.ca.gov/members/a22/Press/p222006017.htm>.

27 Sacramento PTA, Governor Signs More Than 900 Bills, For California Kids: Some Winners, Some Losers, 32 SACRAMENTO UPDATE 2 (Oct. 2006), *available at* <http://www.capta.org/sections/advocacy/downloads/sac-2006-10.pdf>; Arnold Schwarzenegger, Veto Message, *available at* [http://gov.ca.gov/pdf/press/ab\\_1778\\_veto.pdf](http://gov.ca.gov/pdf/press/ab_1778_veto.pdf) (last visited on Oct. 23, 2006).

28 Blog, Braintique.com, *No Child Left Behind as a Military Recruitment Tool*, Sept. 22, 2005, <http://www.braintique.com/research/mt-archives/000230.shtml> (last visited on Sept. 24, 2006).

29 Counter Recruiter, *Florida School Punishes Students For Saying No To Military Recruiters*, Oct. 10, 2005, [http://rncwatch.typepad.com/counterrecruiter/2005/10/florida\\_school\\_.html](http://rncwatch.typepad.com/counterrecruiter/2005/10/florida_school_.html).

30 Adrian Brune, *No Child Left Alone: Bush holds school dollars as "ransom" to build a poor-people's army*, Hartford Advocate, Oct. 9, 2003, *available at* <http://www.hartfordadvocate.com/gbase/News/content?oid=oid:37200> (describing the money given through the NCLB as a ransom for students' information); National Education Association, *Growing Chorus of Voices Calling for Changes in NCLB*, <http://www.nea.org/esea/chorus1.html> (last visited on Sept. 26, 2006).

31 Jennifer Wedekind, *supra* note 13.

32 EschoolNews, *'No Child' splits feds, public*, Oct. 1, 2006, <http://www.eschoolnews.com/news/showstory.cfm?ArticleID=6603>.

33 Melanthia Mitchell, *State legislators weigh in on recruitment in schools*, SeattlePI.org, Feb. 12, 2006, [http://seattlepi.nwsource.com/local/6420AP\\_WA\\_Recruiting\\_Students.html/](http://seattlepi.nwsource.com/local/6420AP_WA_Recruiting_Students.html/).

34 Rowan Scarborough, *Military will meet '06 recruiting goals*, WASH. POST, (Sept. 14, 2006), <http://washingtontimes.com/national/20060913-112353-8168r.htm>; *Army recruiting on course to meet 80,000 goal*, WASH. POST, (Aug. 11, 2006), *available at* <http://www.washtimes.com/national/20060811-123451-1427r.htm>.

35 Associated Press, *Army Recruiters take time off to weigh values*, May 20, 2005, *available at* <http://www.msnbc.msn.com/id/7924959/> (describing recruiter quotas and their recent need for a day of recruiting suspension to re-evaluate ethics of recruiting).

36 *Id.*; Melanthia Mitchell, *supra* note 33.

37 Michael Bronner, *The Recruiters' War*, VANITY FAIR, Sept. 2005, No. 541, at 303.

38 Jonathan Krim, *Pentagon Creating Student Database*, WASH. POST (June 23, 2005) at A01; Kathryn Casa, *Mining for kids: Children can't "opt out" of Pentagon recruitment database*, VERMONT GUARDIAN, <http://www.vermontguardian.com/national/012006/Pentagon.shtml>.

39 U.S. DEPARTMENT OF DEFENSE, Notice to add a system of records, 70 Fed. Reg. 98 (May 23, 2005), *available at* <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/05-10216.htm>

40 ACLU, *Pentagon Student Database Another Example of the Government's Out-of-Control Information Grab*, *ACLU Says*, <http://www.aclu.org/privacy/youth/15333prs20050623.html>.

41 David Goodman, *Military recruiters work hard to leave no child off their lists*, THE SEATTLE TIMES (Oct. 6, 2006), available at [http://seattletimes.nwsourc.com/html/opinion/2003290949\\_dgoodman06.html](http://seattletimes.nwsourc.com/html/opinion/2003290949_dgoodman06.html).

42 Laws such as the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g (1997).

43 Goodman, *supra* note 41.

44 ACLU, *supra* note 40.

45 ACLU, *NYCLU Lawsuit Challenges DoD's Unauthorized Military Recruiting of High School Students* (Apr. 24, 2006), <http://www.aclu.org/studentsrights/privacy/25310prs20060424.html>.

46 Leave My Child Alone!, <http://www.themmob.org/lmca/> (last visited on Oct. 23, 2006).