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Military Recruitment in Schools Gets Personal

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

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” 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. 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.5

Parents and students may opt-out of having their contact information entered into the recruiters' database.6 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."7 The Leave My Child Alone Coalition has suggested establishing a national, "Do Not Recruit List"8 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 Lieberman, 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."9

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.10 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."11

Military recruitment costs the national government nearly $2.5 billion each year.12 Though the recruitment process is not new in high schools,13 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,14 and puts pressure on them to make a difficult decision.15 Parent-Teacher Associations (PTAs) have objected to the military recruiters being in schools, stating that school is not the place for military recruitment.16 PTAs believe that "[r]ecruiters may not present a realistic picture of military life."17
Another issue raised by critics of the provision is that most parents and students do not receive adequate notice of the opt-out option. As long as parents are notified once, even if it is in an obscure manner, the information will be released. 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. The provision excludes military schools and religious schools with non-violent teachings.

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. Generally, in districts where parents were notified of opt-out forms many parents completed them. Meanwhile, in neighboring districts where parents did not receive notification, no opt-out forms were completed.

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. 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. 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.

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. 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. 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. 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.

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. 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, 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.

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. 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. 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.

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. 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.”

Barry Steinhardt, Director of the ACLU Technology and Liberty Project, responded to the Department of Defense project by stating “if 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.\textsuperscript{40}

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.\textsuperscript{41} Though law prevents the national government from collecting such data,\textsuperscript{42} the department has contracted the Massachusetts-based company BeNow to compile such data.\textsuperscript{43}

"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.\textsuperscript{44} The ACLU has filed suit on this issue, but an outcome is unlikely before the renewal of the NCLB Act.\textsuperscript{45}

The group Leave My Child Alone calls this program "illegal" and provides opt-out forms for the Defense Department’s database.\textsuperscript{46}

\section*{Notes}


2. National Education Association Delegates Set Sights on 'No Child' Rewrite, U.S. News, 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/ac/esca/index.html.


6. NCLB, \textit{supra} note 1.


9  Id.
13 Laura Donnelly, The Most Dangerous Game, Tom Paine.com, Jan. 21, 2006, 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/.
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).
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 (last visited on Sept. 24, 2006).


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).


31 Jennifer Wedekind, supra note 13.


36 Id.; Melanthia Mitchell, supra note 33.


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, VERNON GUARDIAN, http://www.vermontguardian.com/national/012006/Pentagon.shtml.


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.