

New York City Department of Education

Proposed Regulation on Recruiters in High Schools

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Background

The No Child Left Behind Act (NCLB) requires that military recruiters be given the same access to schools as college and employment recruiters. Just as it is the responsibility of the school to review curricula for accuracy, it is imperative that schools monitor the behavior of and material presented by recruiters, to prevent disruption of the learning environment and assure that full and factual information is available to allow students to make informed decisions. To this end, the New York City Department of Education is implementing a regulation which meets the requirements of NCLB and allows schools autonomy in its application, while providing basic guidelines to assure academic integrity and school safety.

Preamble

The New York City Department of Education is committed to providing school environments that promote preparation for higher education and/or productive careers. To this end, recruiters from the military, colleges, trade schools and employers may be present on campus. It is the responsibility of the DOE to assure students' privacy, prevent disruption of the academic process and protect students from questionable recruitment tactics which may induce students to make life altering commitments without informed consent.

Therefore, DOE will:

- Direct all High Schools to implement guidelines for, and monitor the presence of recruiters in schools.
- Direct all High Schools to implement an annual plan to inform all students and parents of the right to protect their privacy by "opting out" of directory lists given to recruiters.
- Direct all High Schools to maintain a log of recruiter activities, to make these logs available to the public and to forward these logs to the DOE at the end of each semester.
- Compile reports from High Schools on recruiter activity and make these reports available to the public.
- Review school guidelines to assure that they meet DOE requirements and that they are being implemented appropriately.
- Report recruiter improprieties to the appropriate authorities.

Specific Regulations

A. Recruiter Access:

Pursuant to this regulation, each high school is required to have written school-based recruiter policy in place no later than September 1, 2007.

At a minimum, all school's recruiter access policies shall include guidelines for each of the following categories:

1. Equal Access and Visitation Documentation

o Recruiters of all types (employment, education, service opportunities, military, or military alternatives) shall be given equal access to New York Public High Schools. Each school shall determine the frequency with which recruiters may visit, but in order to be in compliance with this equal access rule, no recruiter shall have the opportunity to visit any single campus more frequently than any other recruiter. For the purposes of this regulation, each branch of the military and each college or employer is considered to be a separate recruiting organization.

o The principal, or the principal's designee shall keep a monthly calendar of upcoming recruiter visits. At a minimum, such calendar shall be available to the public and posted prominently, for example in the school office, the counseling center, the career center and the school's website.

o All recruiters shall be required to sign in and out of the school office at every visit.

o Schools are required to retain a log of their recruiting calendars and sign-in sheets.

This log shall include:

- Name and contact information
- Organization represented
- Date, time and location of activity
- The nature of the activity
- Approximate number of students interacted with

o Schools are required to send copies of the calendars, logs and sign-in sheets to the appropriate DOE designee no later than 8 weeks after the end of each semester.

2. School Order and Safety

- o School rules regarding recruiting on campus shall be posted throughout the school year. At a minimum, the rules shall be available to the public and posted prominently, for example in the school office, the counseling center, the career center, and on the school's website.

- o Reasonable regulations on visitor access may include, but are not limited to, the following:
 - Specified time limits;
 - Frequency limits;
 - Guidelines outlining approved activities such as being a guest speaker in a classroom and participating in career fairs, where approved recruiters may set up, and approved locations for recruiters to leave information when they are not on campus;

- o Schools shall implement a process for approved recruiters to schedule (in advance) specific times to be on campus;

- o Recruiters shall not be alone, unsupervised with any student(s). [For example if they meet in a private office, the door must be open, or they can meet in a common space where other school staff are present, but not necessarily supervising. This is in response to concerns about inappropriate sexual advances or recruiter intimidation tactics.]

- o With the support of the DOE, the school principal/designee will be responsible for the oversight of the recruitment presence, the redressing and documentation of complaints about recruiters that are reported by school community members, and the reporting of these complaints to the appropriate authorities and DOE Officials.

3. Academic Priorities

- o Recruiters of all types are cautioned to remember that the primary goal of the New York City high school is to educate the students who are enrolled in that school. Recruiting activities that interfere with the traditional activities of a given school day are not permitted. If a recruiter harasses students or staff, provides misleading or untrue information, or does not comply with applicable state and federal laws or other school or DOE rules, the school principal/designee has the obligation to contact the organization or supervisor of the campus visitor to report the misconduct. In addition, s/he has the option of limiting or prohibiting future access by that visitor and/or the visitor's organization or service.

- o Recruiters can only address classes during class time if their presentation directly relates to the content of the course.

o School policies shall include a provision that permits organizations that counsel alternatives to the military or provide additional information about the military to be on campus for an equal length of time and similar location, as military recruiters.

o School policies shall reaffirm the DOE's policy that students retain their First Amendment rights of free expression while on campus as long as the expression does not fall outside the First Amendment, including obscene, libelous, or slanderous matter. Any material that creates a clear and present danger of the commission of unlawful acts on school premises, the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school, is also prohibited. Students may protest the military via written materials or peaceful demonstrations on campus as long as the expression is not prohibited or disruptive, as described above. [Bill of Student Rights and Responsibilities, K–12, Section II. The Right of Freedom of Expression and Person]

o Educators and all other school personnel shall be required to read the school's recruitment policy, and to uphold its implementation within the school. This empowers educators to limit disruption to their classes and obligates them to ensure equal access and to report any violations of the policy to school officials.

o The principal shall be responsible for clarifying the rights and responsibilities of school personnel regarding the implementation of the school's recruiter access policy.

4. Responsibility of Recruiters

Each school's recruiter policy shall include clear rules regarding recruiter behavior. At a minimum all recruiters (including those representing the military, colleges, trade schools, training programs, alternatives to the military, etc.) are required to abide by the following requirements:

o Follow all applicable DOE and school guidelines for recruiters;

o Follow the rules of the organization they are representing;

o Schedule all visits in advance;

o Sign the school's recruiter access log each time s/he enters and leaves the school;

o Honor the requests of students who indicate that they do not want to be approached by the recruiter;

o Do not bring military equipment or vehicles on campus unless the Office of Risk Management has approved the request in advance;

o Do not remove students from class or disrupt instructional time without consent, in advance, from the teacher;

B. “Opt Out” Policies and Student Privacy

Background

No Child Left Behind requires schools to notify all parents and secondary school students of their right to “opt out” of the lists of personal contact information that schools must supply to military recruiters upon request. Military recruiters generally ask for information on 11th and 12th grade students, but are often given a list of all high school students. For this reason, it is imperative that EVERY student and parent who has not opted out receive an opt out form **each** year.

In the Fall of 2005, the DOE instructed all principals to distribute opt out forms to all students, however this policy was implemented unevenly from school to school. Many students have reported that they never received a form. Others report that the form was distributed with little or no explanation and little effort was made to collect them. Fall 2006 saw even spottier implementation of this policy and much confusion as to its application.

Therefore, a regulation must be implemented that meets the requirements of NCLB and the needs of students, yet does not unnecessarily burden the schools. In order to give schools time to implement adequate opt out plans the opt-out deadline should be rolled back to January 15th.

1. Proposed Regulation:

Each high school is required to have written plan for compliance with Section 9528 of NCLB in place no later than September 1st, 2007. At a minimum, each school’s plan shall include:

- A system for giving all students and parents the information they need (in their first language) to make an informed decision about whether to opt out or not.
- Clear instructions as to when, how and to whom the form should be submitted.
- Repeatedly posting/announcing the right of both students and parents to opt out, making forms readily available throughout the opt out period and making it simple to turn in and process the completed forms.
- Instructing teachers/school personnel to specifically address students’ and parents’ questions and concerns, especially to clarify that one can opt out of lists given to military recruiters while allowing information to be given to colleges and employers, and assuring anxious students/parents (especially immigrants) that there are no damaging repercussions to opting out.

- Maintaining records so that once a student has been opted out, they are permanently removed from recruiter lists unless the student or parent informs the school IN WRITING that they have changed their mind.
- If a school has already given a student's name/contact information to a recruiter and a student opts out at a later date, the school must direct the military to expunge that students' information from recruitment lists.
- Instructions to turn over to military recruiters ONLY the lists of students in 11th and 12th grades, in accordance with the October 9th, 2002 directive issued jointly by the US Department of Education and the Department of Defense. These lists must not include 9th and 10th graders, to protect the privacy of younger students who may later choose to opt out.
- In any school which administers the Armed Services Vocational Aptitude Battery (ASVAB), the school must select "Option 8. No release of information to recruiters" in order to remain in compliance with FERPA and NCLB regarding student privacy.

Each school must:

- File a copy of their plan with the DOE by the beginning of each school year with copies made available to the public upon request.
- File a notice at the end of the opt-out period informing the DOE that implementation of the plan has been completed.
- File a report at the end of the school year that includes:
 - Documentation of student lists that were released to a military recruiter,
 - the branches of the military involved,
 - which grades were included in the list,
 - the date the list was released,
 - percentage of students who have opted out.
- All reports filed with the DOE must be readily accessible to the public.

C. Responsibilities of the Department of Education:

The DOE will:

- o Inform all principals of the regulations regarding both the recruiter access and the "opt out" policy no later than June 1 of each year to allow time for the schools to develop a suitable plan.
- o Require that each school file its plan by the start of the school year

- o Take appropriate action if a school fails to do so or if the school's plan is insufficient or improperly implemented.
- o Re-affirm the right of principals to set limits on time, place and frequency of recruiter visits.
- o Direct all High Schools to maintain a log of recruiter activities, to make these logs available to the public and to forward these logs to the DOE at the end of each semester.
- o Compile reports from High Schools on recruiter activity and make these reports available to the public. These reports are to include:
 - School logs of recruiter activity on campus.
 - A list of schools which have distributed student directory information to the military, who the lists were given to, what grades were included on these lists and the dates they were distributed.
- o Report recruiter improprieties to the appropriate authorities and make these reports available to the public.
- o Designate a center or office that will serve as a mechanism for overseeing recruitment regulation and addressing complaints that are submitted by students, families, school personnel etc.

C. Monitoring

In each school, the principal or designee will ensure compliance with this regulation and will report on the school's compliance to the appropriate DOE manager. In addition, the DOE will designate an office to monitor participation in activities required under this regulation, and to provide a report on schools' participation to the Chancellor and Panel for Educational Policy. The DOE's designee will provide additional technical assistance and support for schools implementing this regulation.

D. Policy Review

By August, 2007 the DOE will report on the status of the implementation of this regulation. By August, 2008 the DOE will develop a detailed report on the results of the application of this regulation. Data from this report will be used to recommend changes and will serve as a baseline for future efforts. The triennial reports will permit reassessment of the value of existing regulations and highlight areas where additional implementation efforts are needed.

Appendices:

Abstract: "MILITARY RECRUITING: DOD and Services Need Better Data to Enhance Visibility over Recruiter Irregularities" US Government Accountability Office, Report to Congressional Requesters, August 2006. Full report available at: www.gao.gov/new.items/d06846.pdf

"Military recruiting violations rise: GAO", Washington Post, 8/14/06

"AP Probe Looks at Recruiter's Misconduct" Associated Press, Aug. 20, 2006

"Army Recruiters Accused of Misleading Students to Get Them to Enlist" ABC News

Letter from Senator Barbara Boxer

National School Boards Association Articles:

- "Some School Leaders Say Military Recruiters Have Too Much Access"
- "School Boards Are Refining Policies on Military Recruiters on Campus"
- "NCLB Requires Schools to Provide U.S. Military Recruiters with Students' Names and Contact Information"

Seattle Recruiter Access Policy

Austin Recruiter Access Policy

LASUD Recruiter Access Policy

Rochester Recruiter Access Policy

Tucson Recruiter Access Policy

Puerto Rico Recruiter Access Policy

U.S. 9th Circuit Court of Appeals Decision on Equal Access for Counter Recruiters

Seattle Equal access for Counter Recruitment Policy

Military Enlistment Contract

No Child Left Behind Act, Section 9528

US DOE/DOD Directive on Release of Student Information to Recruiters

Montgomery County ASVAB Regulation

What Every Educator Should Know About Military Recruiters in Our Schools

Sample Opt Out FAQ's