

## **National School Boards Association Legal Clips, April 2005**

NCLB requires schools to provide U.S. military recruiters with students' names and contact information

Under the No Child Left Behind Act (NCLB), schools are required to provide U.S. military recruiters with students' names and contact information, unless the students and their parents opt out. In addition, NCLB requires schools to provide military recruiters with the same campus access that colleges and employers receive. Failure to comply can result in loss of federal funds. Typically, the opt-out forms are sent home along with a large number of other forms and notices. As a result, few students return the forms, requiring schools to provide recruiters with information about most students.

Other districts attempt to increase parental awareness of the option by sending separate notification letters. Fairport Central School District (NY) notifies parents by letter that they may opt in (and have their child's contact information given to recruiters) or opt out. Fairport officials provide the military information only about those students whose parents opt in. According to Fairport School Board Chairwoman Christine Heisman, "We have interpreted [the NCLB provision on recruiter access] and feel ours is the correct interpretation. We think this is absolutely the right way. We don't want to hand over student information to anyone. The military wants special privileges." Ms. Heisman acknowledges that the military has expressed disappointment with the opt-in procedure; only 71 parents returned opt-in forms, out of a school population of 1,600 students. She also notes that the U.S. Department of Defense has requested a meeting to discuss the matter. Superintendent William Cala, who also opposes giving military recruiters greater access to student information, says, "The Army wants to make it as difficult as possible to opt out. They want to get kids to join with the least input from parents."

U.S. Rep. Mike Honda (D-CA) has introduced the Student Privacy Protection Act, which would amend NCLB to prohibit a military recruiter from contacting students unless they and their parents specifically opt in. Under the threat of losing federal funding, the San Francisco school board revised its opt-in procedure and its longstanding policy of barring military recruiters from its schools.

Critics of the NCLB provision argue that military recruiters engage in aggressive tactics geared toward low-income students with few options. Jan Thaczyk, a counselor at Cape Cod Regional Technical High School in Massachusetts, acknowledges that she has heard reports of recruiters seeking out low-income students or using misleading tactics, but she has not witnessed such tactics at her school. Kevin Quinn, the counselor at South Kingstown High School in Wakefield, Rhode Island, views the military as one of many post-graduation options. "I don't push the military," he says. "I do push for informed decisions." Mr. Quinn advises his students not to sign until they are positive and to make sure they get promises from recruiters in writing.

*[Editor's Note: An antiwar group known as the Ya-Ya Network recently settled a lawsuit with the New York City Police Department (NYPD). Under the settlement, the group will be allowed to distribute leaflets on public sidewalks outside public schools without fear of being arrested for loitering. The settlement affirms the group's First Amendment free speech rights and also applies to public sidewalks near private schools and universities. For additional details, see the New York Times article, below. COSA members report that legal, policy, and political questions over military recruiting in public schools have been popping up of late. See the account of a recent minor uproar in Minnesota. An overview of NCLB's requirements regarding recruiters is included in the NSBA Federal File document below. NSBA does not believe that the "opt in" approach is consistent with current law.]*

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