



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

Ms. Donna Lieberman
Executive Director
New York Civil Liberties Union
125 Broad Street
New York, New York 10004

JUN 18 2010

Dear Ms. Lieberman:

This is in response to your letter, dated April 22, 2010, regarding the military recruiter provisions of the Elementary and Secondary Education Act (ESEA) of 1965, as amended. Specifically, you ask whether, under these provisions, "secondary students may request that their name, address and telephone listings, also known as 'directory information,' not be released to the military, and that students do not require parental consent to make such a request." This office administers the ESEA military recruiter provisions and provides technical assistance to educational agencies and institutions on these requirements.

As you know, local educational agencies (LEAs) that receive assistance under the ESEA are required to give military recruiters the same access to secondary school students as they generally provide to postsecondary institutions or to prospective employers. LEAs are also generally required to provide students' names, addresses, and telephone listings to military recruiters, upon request. Under these provisions, LEAs are required to provide notice to parents of students whose information will be disclosed and provide parents with an opportunity to opt out of the disclosures. These requirements are found in § 9528 of the ESEA (20 U.S.C. § 7908). Similar requirements are also contained in 10 U.S.C. § 503.

While the statute clearly states that LEAs must notify *parents* and give them an opportunity to opt out of the disclosure of the military recruiter information, it also states that a "secondary school student *or* the parent of the student may request that the student's name, address, and telephone listing ... not be released without prior written parental consent." (Emphasis added.) See 20 U.S.C. § 7908(a)(2). Accordingly, an LEA is required to notify parents about the potential disclosure, but a secondary school student may request that information not be released, without prior written parental consent, and the LEA would have to comply with that request.

I trust that this is responsive to your inquiry as it relates to the ESEA military recruiter provisions.

Sincerely,

A handwritten signature in cursive script that reads "Ellen Campbell".

Ellen Campbell
Acting Director
Family Policy Compliance Office