Superintendent Jean-Claude Brizard  
Rochester City School District  
131 W. Broad Street  
Rochester, NY 14614

RE: The proposal to change the current policy on military recruitment to an “opt out” policy in the Rochester City School District.

Dear Superintendent Brizard:

We write to urge the Rochester City School District (the “District”) to retain its current policy on military recruitment.¹

Pursuant to Policy 1240.1, each year parents of students attending the District’s high schools are required to complete and return to their local school both an emergency contact form and a letter indicating their consent to have their child’s personal information shared with the following groups: employers, colleges/universities, and the military. Pursuant to Policy 1240.1, the District does not interpret the absence of a signed form as permission to share students’ personal contact information; rather the District commits to maintaining privacy until the family makes its wishes known. For the reasons set forth below, we believe that Policy 1240.1 appropriately protects the District’s students from overly aggressive military recruitment tactics and that it is fully compliant with the provisions of the No Child Left Behind Act (NCLB).²

Essentially, NCLB and the National Defense Authorization Act (NDAA) require two things with respect to disclosure of student directory information. First, school districts must provide a list of students’ names, addresses and phone numbers to the military upon request. Second, school districts are expected to implement a procedure by which students and or parents can exercise their right to withhold directory information from military recruiters. NCLB is entirely silent as to what type of procedure must be used to compile this list of information. Congress has left it up to the schools to decide how they want to compile requested directory information. The law does not specify whether schools are to presume that parents want the information released or not. All that is required is that they do not deny such a request. Provided the school responds to


² The National Defense Authorization Act of 2001, codified at 10 U.S.C. 503 (“NDAA”), contains provisions similar to section 7908 of NCLB. We believe that Policy 1240.1 is also compliant with NDAA.
the military recruiter request and provides a list of names, addresses and phone numbers to the military, it has not denied the request for directory information.\(^3\)

It has come to our attention that recently the US Marines have threatened the Rochester school district with the loss of its federal education funding because Policy 1240.1 does not comport with the military’s preference that all students’ personal contact information be handed over unless a student or parent specifically requests that their information be kept private. Yet, as the District no doubt was aware when it began enacting Policy 1240.1, this method is problematic with respect to ensuring the privacy rights of students.

By assuming by default that students and their families would accede to the sharing of their personal contact information, almost all students would have their directory information turned over – a significantly different outcome from the current practice. Parental opt-out notices often fail to get home or, if they do, are rarely returned. Many times, schools incorrectly dismiss a student’s right to opt themselves out.\(^4\) Yet, even when students are given the opportunity to opt out, the form is rarely explained, and consequently dismissed by the student. Student information unknowingly given to recruiters has resulted in constant and harassing phone calls, and even recruiters showing up at young people’s homes.

Policy 1240.1 not only protects against such abuse, but it allows the military to deploy their scarce resources in an efficient and targeted manner. Under the current policy, recruiters have a list of contacts that they can follow up with who are interested in the opportunities that military service can provide rather than wasting their time and energy following “leads” to students who, in fact, have no interest in military service. In addition, students exploring or thinking about exploring a career in the armed services have ample opportunities to get more information, either directly from recruiters during their scheduled school visits\(^5\) or at one of the dozen recruiting centers throughout Rochester. The military itself has even previously recognized the efficiencies inherent in Policy 1240.1. In 2002, US Army Lieutenant Colonel Timothy P. Kelly wrote a letter to Dr. William J. Cala, the former superintendent of the Fairport and Rochester school districts, thanking him for his cooperation in delivering the names of nearly 200 students, even though the Fairport school district utilized a method similar to that set forth in Policy 1240.1.\(^6\)

We make one final observation with respect to the threat of imposition of monetary sanctions as asserted by the US Marines. That threatened sanction is unfounded. NCLB contemplates the imposition of monetary penalties only against New York State, not against individual local educational authorities, such as the District.\(^7\) In addition, no monetary sanctions are available at all under NDAA. Rather, NDAA establishes a series of “intervention provisions” that must be

\(^3\) Note there is no enforcement mechanism set forth in NCLB specific to the military recruiter provision and the enforcement provisions of the NDAA state that a school only violates the statute if it “denies a request by the Department of Defense for recruiting access” to directory information. 10 U.S.C § 503(c)(2).

\(^4\) Confirmed in an email from Ellen Campbell, Family Policy Compliance Office, United States Department of Education, ferpa@ed.gov, dated September 16, 2005. We note that the District’s policy should be amended to permit students, as well as their parents, to exercise the right to object to disclosure of contact information.

\(^5\) NCLB “same access”


\(^7\) See 20 U.S.C. § 6311(g)(2).
taken in the event a school is non-compliant with NDAA military recruiter provisions. This includes meetings between military recruiter representatives and school administrators, contact between the US Department of Defense and the state governor, and reports to various members of Congress concerning local non-compliance. Intervention provisions do not permit the withholding of any federal funds from the offending school.

The new administration in Washington may take a very different approach to this issue than the previous administration. As well, there is a strong possibility that NCLB will come up for revision this year. For these reasons, we urge you to keep Policy 1240.1 intact and to continue to protect student and parent privacy by permitting the District's families to control the disclosure of their student directory information.

Sincerely,

Donna Lieberman
Executive Director

Gary Pudup
Genesee Valley Chapter Director

CC: District General Counsel Charles Johnson
Rochester City Board of Education Members

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8 See 10 U.S.C. § 503(c)(3)-(4)