

August 25, 2005

Dear Superintendent:

Two years ago, after passage of the No Child Left Behind Act, the Rhode Island ACLU wrote all school superintendents in the state to offer suggestions on ways that schools could preserve the privacy rights of high school students while complying with one particular provision of the Act. That provision requires school districts to provide student names, addresses and phone numbers on request to various branches of the United States military for recruiting purposes, but also requires that schools give **students and parents** the opportunity to not have that information disclosed without written parental consent.

Because implementation of this law has been the fodder of much nationwide discussion in recent months, our Affiliate, as you know, recently surveyed each district in the state to assess how compliance with this provision of NCLB was being handled. Based on that assessment, we are writing to share information with you that we believe can help your district improve its compliance with the law and better protect students' privacy rights.

Our survey revealed that school districts are using a wide range of methods to comply with the law's notification and refusal requirements, and that in some communities, compliance policies are still being formulated. Enclosed with this letter is an assessment of your particular district's procedures, with targeted improvement suggestions. However, we first want to stress our finding that one of the law's most crucial features has been inadequately conveyed by almost every district in the state:

Any high school student – including those under 18 years old – can prevent the automatic release of directory information to the military by requiring that his or her parent consent to that release.

In effect, this means that a student – independent of his or her parents – can require a school to respond to information requests from military recruiters with an automatic “No” (unless and until parents give their written consent), instead of an automatic “Yes” (as is the default response, if nobody has communicated otherwise). In other words, no parental action is required for a *student* to prevent automatic release of this information to the military.

We are concerned that school districts have not adequately informed students about this right. **While many schools provide “Refusal Forms” for parents to sign, none that we reviewed had similar forms for use by high school students under 18 years of age.**

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We urge you to correct this oversight, thereby benefiting the many students with privacy concerns or reservations about military service who may now be receiving unwanted recruitment offers because their parents never saw, or neglected to return, a refusal form.

Please also review our analysis of your district's policy, which includes a list of "best practices." We also have enclosed a model opt-out form that school districts can use, as well as the relevant text of the NCLB military recruitment provision. We hope this information will assist you in developing a more effective notification program – something that is especially important when communication with parents of teenagers is involved.

Feel free to contact me or Amy Myrick at our office with any questions. Thank you in advance for your attention to this important students' rights issue.

Sincerely,

Steven Brown
Executive Director

Enclosures

AN ANALYSIS OF YOUR SCHOOL DISTRICT'S MILITARY RECRUITMENT INFORMATION-SHARING PRACTICES

SCHOOL DISTRICT _____

_____ Your district reports that you do not notify parents or students of their refusal rights. Section 9528 of the “No Child Left Behind Act” requires schools to notify parents and honor any refusal requests. Failure to do so is a violation of students’ and parents’ rights under the law. A form and policy should be developed promptly, and no information released to the military until proper opt-out notification is provided to parents and students. We encourage your district to follow the various suggestions contained herein.

_____ Your district has a written policy or handbook provision that explains the refusal option, **but you do not provide a separate form to facilitate refusal**. Information buried in lengthy documents is likely to be missed or ignored. We thus urge you to develop a user-friendly form similar to the enclosed sample.

- **Forms should offer both parents and students a refusal option.**
- **The form should address military recruitment either exclusively or separately from any other type of information-sharing request (so a student can say “no” to recruiters but “yes” to colleges or scholarship programs, for example).**
- **Forms should be mailed to homes – not included in a student handbook or other lengthy document where they’re likely to be overlooked.**
- **Return deadlines should provide sufficient time for parents or students to respond, and forms should continue to be accepted after the deadline.**

_____ Your district circulates parental refusal forms in a student handbook or keeps them on hand at school (or in some cases we were unable to determine how you are distributing your forms.) Parents are unlikely to receive or carefully review these handbooks or to seek out forms. We therefore suggest that you **mail refusal forms separately** to students’ homes.

_____ Your district circulates a *parental* refusal form, but fails to provide a form that allows *students* to request that the school obtain written parental consent before releasing directory information to military recruiters.

_____ Your district provides a form on which a “No” response means withholding information not only from military recruiters, but also from other requesters (such as colleges and universities or yearbook providers). Parents and students have the right to opt-out of military requests **separately** from any other type of notification program.

(continued)

_____ Your district has a short deadline for the return of non-release requests. We suggest that parents and students be given at least 30 days to return the forms, and that you continue to receive forms after any deadline and honor them when you receive future requests.

_____ Your district provides to military requesters “directory information” more expansive than name, address, and phone number – the minimum required by law. We suggest that you limit release to these three required items.

_____ Other:

NOTE: FORMS AND POLICIES SHOULD BE MADE AVAILABLE IN ALTERNATIVE LANGUAGES IN DISTRICTS WITH NON-ENGLISH SPEAKING FAMILIES

Parent Refusal Form for Military Recruiter Information Requests

Unless you request otherwise, our school is required by federal law to give your child's name, address, and phone number to any military recruiter who asks. Rhode Island schools usually receive several requests like this each school year.

As a parent, you can ask that your child's information NOT be released to military recruiters unless you formally consent. If the school can't reach you, or if you don't respond, your child's information will not be released.

If you do not make this request, release of the information is automatic when recruiters ask. Please sign below if you wish to require parental approval:

Please DO NOT release my child's information to military recruiters unless I am contacted and provide written permission.

(Signature)

(Your Name)

(Your Child's Name and Grade)

Date

**RETURN THIS FORM TO SCHOOL PERSONNEL AS SOON AS
POSSIBLE.**

Student Refusal Form for Military Recruiter Information Requests

Unless you or your parents request otherwise, our school is required by federal law to give your name, address, and phone number to any military recruiter who asks. Rhode Island schools usually receive several requests like this each school year.

If you are under 18 years old, you can ask that your information NOT be released to military recruiters unless your parents consent. This means that your parents need to formally approve any release. If your school can't reach your parents, or if they don't respond, your information will not be released.

If you do not make this request, release of your information is automatic when recruiters ask, with no approval from you or your parents required.
Please sign below if you wish to require parental approval:

Please DO NOT release my information to military recruiters unless my parents are contacted and provide written permission.

(Signature)

(Your Name and Grade)

Date

If you are 18 years old or over, you can ask that your information NOT be released to recruiters unless YOU consent to the specific request. Please sign below if you wish to require your own consent:

Please DO NOT release my information to military recruiters unless I consent. I am 18 years old or above.

(Signature)

(Your Name and Grade)

Date

**RETURN THIS FORM TO SCHOOL PERSONNEL AS SOON AS
POSSIBLE.**