

Access to Secondary Students

20 USC §7908

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PURPOSE

The Pennsylvania Department of Education interprets Public Law 107-110, No Child Left Behind Act of 2001, Section 9528 (Armed Forces Recruiter Access To Students and Student Recruiting Information), 20 USC §7908, and Pennsylvania law Act 10, 1991, 51 P.S. §§20221-20225 in the following manner:

Access to Student Recruiting Information:

Pursuant to the *No Child Left Behind Act of 2001*, all local educational agencies (LEAs) must provide to military recruiters or institutions of higher education, upon request, access to secondary school students' (i.e., juniors and seniors) names, addresses and telephone listings. The state military affairs law requires the release of directory information consisting of a list of senior male and female students by name, home address and telephone number. The list will be compiled by the first day of the academic year in which the senior students will graduate.

Notification and Consent:

Under the *Family Educational Rights and Privacy Act (FERPA)*, an LEA must provide notice to parents of the types of student information that it releases publicly. This type of student information, commonly referred to as "directory information," includes such items as names, addresses, and telephone numbers and is information generally not considered harmful or an invasion of privacy if disclosed. The notice must include an explanation of a parent's right to request that the information not be disclosed without prior written consent. Additionally, Section 9528 requires that parents be notified that the school routinely discloses names, addresses, and telephone numbers to military recruiters upon request, subject to a parent's request not to disclose such information without written consent. A single notice provided through a mailing, student handbook, or other method that is reasonably calculated to inform parents of the above information is sufficient to satisfy the parental notification requirements of both FERPA and Section 9528. The notification must advise the parent of how to opt out of the public, nonconsensual disclosure of directory information and the method and timeline within which to do so.

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described in the preceding paragraph be excluded from the list and not be released without prior written parental consent. The local educational agency shall notify the students and parents of the option to make such a written request at least 21 days prior to compilation of the list, and shall comply with any request.

Same Access to Students:

Each local educational agency receiving assistance under the *No Child Left Behind Act of 2001* shall provide military recruiters the same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers of those students.

Student directory information will be used specifically for armed services recruiting purposes and for informing young people of scholarship opportunities.

Private Schools:

The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces if the objection is verifiable through corporate or other organizational documents or materials of that school.

Privacy:

Title 20 USC §1232g (*Family Educational Rights and Privacy Act* [FERPA]) protects the privacy of a student's education records. This legislation also allows schools to release directory information of their students without consent as long as they make notice to parents and eligible students of the release of such information and allow them a reasonable amount of time to request that the school not disclose directory information about them.

Non-compliance (to both federal and state statutes):

Under Pennsylvania law, any refusal to provide the requested information is a summary offense, which may subject the offender to a \$100 per day fine for the duration of the violation.

Under United States Military Law, the sequence of actions for non-compliance is as follows:

- 1) A senior military executive (Colonel or higher rank) from the Department of Defense is required to personally meet with representatives of the LEA for the purpose of arranging for recruiting access. The designated military officer shall seek to arrange this meeting within 120 days of the date of the denial of the request for recruiting access.
- 2) If access is not afforded within 60 days of the senior military executive visit, the Secretary of Defense must notify in writing the Governor of the state in which the non-compliant school is located.
- 3) If military recruiters are not afforded equal access within 1 year of notification of the Governor's office, the name of the school will be given to Congressional Education and Defense oversight committees, the Senators of the State and the member of the House of Representatives who represents the district in which the LEA is located, if the Secretary of Defense determines that the LEA has denied recruiting access to at least two of the armed forces (Army, Navy, Marine Corps, etc.).

Non-compliance with Section 9528 of *No Child Left Behind Act of 2001*, 20 USC §7908, may result in the loss of educational federal funding.

Reimbursement of Costs:

Reimbursements from armed forces recruiters are permitted for any costs incurred in complying with the law.

REFERENCES:**Purdon's Statutes**

51 P.S. §§20221-20225

Federal Statutes

Title 20 USC §7908, No Child Left Behind Act of 2001

Title 20 USC §1232g, Family Educational Rights and Privacy Act (FERPA)

Title 10 USC §503, as amended by §544 of the National Defense Authorization Act for Fiscal Year 2002

Federal Regulations

34 CFR, Part 99

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