



Military Recruitment at High Schools

Do military recruiters have access to students' names, addresses, and phone numbers?

Yes, unless the parents or the student instruct the schools not to release the information. Schools are required to honor a family's request to opt out of lists provided to military recruiters by the "No Child Left Behind Act" ("NCLB"). 20 U.S.C. § 7908(a)(2). A student has the individual right to opt out, so a school may not demand additional permission from the parent or guardian.

What other information do military recruiters have access to?

Under NCLB, no other information is supplied to military recruiters, but the Department of Defense ("DoD") has recently announced that it is developing a centralized database of information about tens of millions of young people who are potential recruits. The "Joint Advertising and Market Research Recruiting Database" ("JAMRS database") currently holds information on more than 30 million young people, and includes information such as course of study, grade point average, schools attended, college intentions, Social Security numbers, and ethnicity in addition to the standard directory information. This information is collected from Department of Motor Vehicles records, private commercial vendors, Selective Service registration materials, standardized test registration materials, and even directly from requests of those people asking to be removed from recruitment lists. The New York Civil Liberties Union has filed a complaint on behalf of several young people whose information is in the JAMRS database, alleging that the actions of the DoD violate the Administrative Procedures Act as well as the Defense Act. Hanson et al. v. Rumsfeld et al. (complaint filed on April 24, 2006).

If I opt out of releasing my information to military recruiters, will that cause my information to be withheld from college and occupational recruiters as well?

No. Each right to opt out may be exercised independently. The NCLB allows parents to bar disclosure of name, address and phone number in accordance with their choice, i.e. barring disclosure to military recruiters without barring disclosure to institutions of higher education, or vice versa.

Are schools required to allow military recruiters on campus?

Federal and Tennessee laws require high schools to give military recruiters the same access to the campus as they provide to other persons or groups who advise students about occupational or educational options. Therefore, if a school does not have any on-campus recruiting by employers or colleges, it is not required to have on-campus military recruiting. But if a school has a job fair with booths for many employers, it must offer a booth to military recruiters.

Can my school allow military recruiters in the lunchroom?

School districts have great leeway to decide which areas are open to non-students. So long as military recruiters receive the same access as other recruiters, it is up to the school to decide whether they will be allowed into the lunchroom, the commons, the career counseling office, or another designated area.

Can my school exclude military recruiters if it has a rule against recruitment by employers or colleges that discriminate on the basis of sexual orientation?

A school that forbids recruitment by discriminatory organizations could argue that the same rule should apply to military recruiters. There are no court decisions on this question in Tennessee, but a recent decision from the United States Supreme Court held that the "Solomon Amendment", 10 U.S.C. § 983, which provides that institutions of higher education denying military recruiters access equal to that provided other recruiters will lose certain federal funds, does not violate the First Amendment. The court found that Congress may require equal access to military recruiters without violating the schools' freedoms of speech or association. Rumsfeld v. Forum for Academic and Institutional Rights, Inc. 126 S. Ct. 1297 (2006). This holding, while limited to institutions of higher education, certainly dampens the prospect of a high school using this defense.

Is a school required to give military recruiters better access than it gives to other recruiters?

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If a school dedicates part of its property as a space for presentations by selected categories of speakers (like job recruiters), the law considers that space to be a "public forum." A school operating a public forum must give all speakers within that category the same degree of access. For example, a school that gives military recruiters access to a public forum must give equal access to other recruiters.

However, a school has control over its own curriculum, and it does not automatically create a public forum merely by presenting its choice of materials or guest speakers to students. Whether a school has created a public forum for recruiters will depend on the specific facts and history at the school. Poling v. Murphy, 872 F.2d 757 (6th Cir. 1989).

Can peace groups or military counseling groups get equal time to military recruiters?

Nothing would prevent a school from allowing peace groups on campus if it wished. Whether peace groups could require the school to provide access against its wishes depends on whether the school has created a public forum for that kind of expression. For example, if a school had a job fair with booths for many employers, it could not keep out organizations that describe jobs in the peace movement. It is less clear whether the school could keep out a booth that did not offer jobs of its own, but instead did nothing but criticize the job opportunities described by others. The outcome will depend on the specific facts and history at the school. Hansen v. Ann Arbor Public Schools, 293 F. Supp. 2d 780 (E.D. Mich. 2003).

Can student peace groups meet on campus?

Yes, so long as the school allows other student groups to meet on campus. The Equal Access Act, 20 U.S.C. § 4071, requires schools that have at least one noncurriculum-related student group meeting on campus to give equal access to all student groups. This includes student organizations. Boyd County High Sch. Gay Straight Alliance v. Bd. of Educ., 258 F. Supp. 2d 667 (E.D. Ky. 2003).

How can I make sure that my school doesn't release my information to military recruiters?

To keep the military from getting a student's contact information, the student or a parent should submit a request to the school, in writing, stating that the school should not give the student's information to the military. The school should give students and parents a form for this purpose and explain their right to have information withheld, with an option to withhold information from either military recruiters, institutions of higher education, or both. Even if the school provides a standard form, they should honor any written request to withhold information.

If I turn 18 while still in high school, and register for the draft as required by law, do I forfeit my ability to opt out?

No. The school is required under the NCLB to comply with any request that a student's name, address and telephone number not be released to military recruiters. 20 U.S.C. § 7908(a)(2). Simply because you have registered with the selective service does not mean that a school may ignore your request to withhold information to the military. If it were to ignore such a request, it would be in violation of the NCLB.