

THE LEGAL MANDATES FOR MILITARY RECRUITING

FEDERAL POLICIES

No Child Left Behind Section 9528

Most commonly mentioned is **Section 9528 of the No Child Left Behind**, or Elementary and Secondary Act of 2002 (see text). Of significance is that releasing the names, addresses and telephone numbers to military recruiters upon request is now tied into receiving federal funds (unless an Opt Out form is received).

The law leaves it up to the local school agency (school district) to determine the specific way it will comply with this law, such as:

- How they will inform students and parents
- Deadline
- Dates
- Whether students under 18 years can sign the forms without parent signature
- Whether they will separate Opt Out from the military from college or other categories

Note: In the Los Angeles Unified School District, Access to School Records is explained on page 7-8 of the *LAUSD Parent Student Handbook 05-06*. It states that the privacy of school records is protected by federal and states laws which cover nearly every type of pupil record maintained by local schools or school district central offices. Such records might include information about attendance, health, grades, behavior, athletic ability, or activities in the class. The law prohibits the release of pupil records information without written consent of the parent, or student (18 years or older)

There is a special category of pupil record information that does not require the same level of confidential treatment as pupil record information. Under the law, a school district may identify certain categories of information as directory information and may provide directory information to certain individuals, officials and organizations identified by the district as those who have a legitimate need to know (PTA, Health Departments, Elected Officials and Military). Directory information for the military is for 17 and 18 years old only; name, address and telephone number.

The NCLB Act also states in Section 9528 that the military is to have the same access to secondary school students as is provided generally to post secondary educational institutions or to prospective employers of those students.

In other words, the military can not be banned from high schools, **BUT** the law states they are to have the same access as career and college recruiters, **NOT MORE**. Many school district staff erroneously believe that military recruiters are to have **OPEN** access to schools.

Pentagon Database

This past year when the Pentagon began contracting with a private marketing firm BeNow in 2002, it was discovered that they have been collecting the personal data of 16-25 year olds for years. This data includes: name, address, email addresses, cell phone numbers, ethnicity, social security numbers and areas of study. This data collection is being contested as a violation of the Privacy Act. See the text for further information.

Ninth Circuit Court Ruling: Equal Access to High Schools

This equal access decision makes it possible for counter recruiters to have a forum to present other views which are in opposition to the military (see text and examples of what counter recruitment activists have been able to do in schools). This ruling is an important tool for counter recruiters and must be applied with sensitivity, least it gets challenged and taken to the Supreme Court. See [Using Equal Access to Counter Militarism in High Schools, Project on Youth and Non-Military Opportunities](#) for background information. www.projectyano.org .

CALIFORNIA STATE POLICIES

JROTC (Junior Reserves Officer Training Corps)

California Education Code Section 51750

The governing board of any school district maintaining a secondary school may establish in the school courses in military science and tactics complying with the laws of the United States made and provided with reference to Reserve Officers Training Corps units in educational institutions.

No student enrolled in any such school shall be required to enroll in any course in military science and tactics.

Thus California state law is explicit in that JROTC is a voluntary class

Students Free Speech Rights

California Education Code Section 48907

This law states that students have the right to distribute leaflets, wear buttons, and even publish unofficial newspapers. Schools cannot stop these activities unless the material is obscene, libelous, or creates an immediate danger of causing students to commit unlawful acts, violate school rules or substantially disrupt schools. (see Student Rights brochure)

California Education Code Section 48950

Schools cannot punish students for expressing themselves, if that expression would have been allowed outside school under the First Amendment or the California Constitution.