

# Frequently Asked Questions on Student Privacy, the Family Educational Rights and Privacy Act and the No Child Left Behind Act

## **What is the Family Educational Rights and Privacy Act and what does it have to do with student privacy?**

The Family Educational Rights and Privacy Act ("FERPA") makes student records confidential. However, FERPA permits schools to release "directory information" to the public. "Directory information" may include the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

FERPA requires schools to honor a parent's request that any or all of that information not be released without the parent's prior consent. A parent must affirmatively notify the school not to release any or all directory information in order to protect that information from disclosure. If a parent does not opt out under FERPA, directory information is available generally to the public.

## **What is the No Child Left Behind Act, and what does it have to do with student privacy?**

Enacted by the U.S. Congress in 2002, the No Child Left Behind Act (NCLB) primarily deals with improving standards in education. However, one section of the NCLB requires high schools that receive federal funding to release the name, address and telephone number of students to military recruiters and institutions of higher education upon request. This information must be disclosed even if a parent has directed the school not to release directory information under FERPA. Under NCLB, schools are also required to inform students and their parents of their right to "opt out" to protect their privacy.

If a parent or student does not opt out under NCLB, schools must disclose a student's name, address and phone number upon request by military recruiters or institutions of higher education -- even if the parent has already opted out under FERPA.

## **What information about students are recruiters entitled to under NCLB?**

The NCLB Act says that only the student's name, address and phone number must be shared with military recruiters or institutions of higher education.

## **How do I "opt out"?**

Students or their parents or guardians may "opt out" by sending written notice to the school district that the schools do not have permission to share their information with military recruiters or institutions of higher education or both. Some schools provide forms for this purpose. If your school does not provide such a form, a print-and-mail "opt out" form is available from the ACLU at <http://vnvw.aclufl.org/>. School districts appoint different

people to oversee NCLB requests. You should contact your school's administrative office to find out who should receive the form or letter.

### **What happens if I do nothing?**

Your school will keep your name on a list of students whose directory information is available to the public, including military recruiters, institutions of higher education, and private companies.

### **Can I change my mind?**

Yes. At any point during the school year, you are permitted to change your status with your school by informing the district in writing that you wish to opt out or opt in again. If you have previously opted out, a parent or guardian must make the request to opt back in.

### **If I opt out of the military recruitment part, can I still be included in the yearbook and student directory?**

Yes. Your school should give you the option of separately opting out of the military recruitment contact list, and the yearbook or student directory. If the school does not provide this option, request it in writing from the school principal's office. As with any correspondence, keep a dated copy of your letter or request form for your records.

### **I don't want my information going to recruiters, but I do want colleges to be able to contact me.**

Students or parents may request that information be released to institutions of higher education but not to military recruiters.

### **It doesn't matter to me if military recruiters contact me.**

If you take no action with the school, you will remain on the list of students who have not "opted out" and the directory information will be available to military recruiters and others.

### **My school has a military recruiter on site. Can I still "opt out"?**

Yes. Students should be aware that if they voluntarily give their phone number or address to a recruiter at school, they may be contacted at home.

### **Do I have to renew my opt-out status every year?**

It depends on the policy of your school district. Contact the district to find out the requirement.

### **What if the school district tells me I can't "opt out" or stalls my request?**

Under federal law, schools are required to honor a request to prevent disclosure of student information without prior consent. If your school refuses to honor your request, contact your local ACLU chapter to ask for their assistance. Many chapters are in discussion with school districts regarding the privacy requirements under FERPA and the NCLB Act.