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DEPARTMENT OF EDUCATION
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September 9, 2014

TO: Chief School Administrators
Charter School Lead Persons
High School Principals

FROM: Patricia C. Morgan, Chief
Legal and External Affairs Officer

SUBJECT: Requests for Student Information from Military Recruiters, Institutions of Higher Education and Prospective Employers

Title IX (section 9528) of the *Elementary and Secondary Education Act (ESEA)* requires that, on behalf of the Secretary of the United States Department of Education (USDE), the New Jersey Department of Education (NJDOE) inform school administrators about requirements under this portion of the legislation and the *Family Education Rights and Privacy Act (FERPA)* regulations.

All of the documents referenced below can be found on the NJDOE website:
<http://www.nj.gov/education/grants/nclb/guidance/info/>.

Family Education Rights and Privacy Act (FERPA)

As referenced in a joint letter issued by the USDE and the United States Department of Defense (USDOD), districts are responsible for notifying parents and guardians of a provision in the *Family Education Rights and Privacy Act (FERPA)*. This Act protects the privacy of student education records. Its primary purpose is to prevent districts from disclosing student information that may be harmful, or invading students' privacy by placing student information in certain school publications. Information regarding FERPA, including regulations, guidance, sample letters and technical assistance resources, can be found at:
<http://www2.ed.gov/policy/gen/guid/fpco/index.html>.

In January 2013, Congress passed the "Uninterrupted Scholars Act (USA)" which amended FERPA to permit educational agencies and institutions to disclose education records of students in foster care to state and county social service agencies or child welfare agencies. The statute also amended the requirement that educational agencies and institutions notify parents before complying with judicial orders and subpoenas in certain situations. It is important to note:

1. USA **only** applies to students in out-of-home placement for foster care.
2. USA is **only** for the purpose of an individual child's case plan to meet the education needs of an individual child.

Requests for Student Information from Military Recruiters, Institutions of Higher Education, and Prospective Employers

- Section Title IX outlines the provisions that give military recruiters the same access to secondary school students as recruiters from postsecondary institutions or prospective employers (i.e., college fairs, job fairs, etc.). The ESEA also requires districts to provide students' names, addresses, and telephone listings to military recruiters, when requested. The final guidance issued by the USDE on October 9, 2002 for this provision can be found at: <http://www2.ed.gov/policy/gen/guid/fpco/hottopics/ht-10-09-02a.html>.
- The U.S. Army Mid-Atlantic Recruiting Battalion has requested the student directory of juniors and seniors' information be submitted, preferably in an Excel (.xls) format, to U.S. Army recruiters by October 15, 2014. If you have questions about this request, please contact Giovanna Hansen, Battalion Education Service Specialist at 732-323-7375 or email: giovanna.c.hansen.civ@mail.mil.
- A joint letter prepared by the USDE and USDOD may be accessed here: <http://www2.ed.gov/policy/gen/guid/fpco/doc/ht070203.doc>. This federal requirement is also supported by state regulation (N.J.A.C. 6A-32-7.1, Student Records).
- To ensure compliance in this area, all schools receiving assistance under the ESEA must comply with requests for the names, addresses and telephone numbers of secondary school students made by:
 - 1) Military recruiters,
 - 2) Prospective employers, or
 - 3) Recruiters from institutions of higher education.

This information is to be provided by the school unless a parent or the adult student (age 18) has “opted out” of providing such information. Parents or adult students (age 18) must request in writing that student information not be disclosed to one or all entities as indicated above. A sample “opt out” notification letter, to be distributed to parents and students, is attached to the back of this memo and posted at: <http://www.nj.gov/education/grants/nclb/programs/optoutform.pdf>.

- Districts are encouraged to distribute these documents to parents at the beginning of the school year so they may make a timely, informed decision.

Please ensure that parents are notified of these requirements and given the opportunity to use the “opt out” form. As part of the *ESEA* monitoring process, the NJDOE will review districts' compliance with the requirements of Title IX §9528. If you have any questions, please contact Judy Alu in the Office of Supplemental Educational Programs via email at: titleone@doe.state.nj.us.

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Attachment

c: Members, State Board of Education Executive County Superintendents
 Acting Commissioner David C. Hespe Executive County School Business Administrators
 Senior Staff Executive Directors of Regional Achievement Centers
 Karen Campbell Garden State Coalition of Schools
 Diane Shoener New Jersey Lee Group
 Michael Yaple Giovanna Hansen

**Parental Objection to Release of Student Information
to Military Recruiters, College/University Recruiters or Prospective Employers**

[Copies of this form should be given to students in school as well as provided to parents]

Dear Parent/Guardian:

Under the federal Elementary and Secondary Education Act, public high schools must give the names, addresses and telephone numbers of students to military recruiters, college/university recruiters and prospective employers if the recruiters request the information (P.L. 107-110, Section 9528; 10 USC 503). However, students or their parents have the right to instruct the school in writing that this information is not to be released.

If you do not consent to the release of this information to 1) military recruiters, 2) colleges/university recruiters and/or 3) prospective employers, please check the appropriate box or boxes below. To be certain your wishes are respected, return this form to **[office at school] by [date]**, although signed forms returned after that date will be effective after receipt by the [school office]:

- DO NOT release student contact information to Military Recruiters.
- DO NOT release student contact information to College/University Recruiters.
- DO NOT release student contact information to prospective employers.

Student's Name

Name of School

Signature of Student or Parent***

Date of Signature

*** Students have the right to request that their contact information not be released to recruiters. Parents can override a child's decision by notifying the school in writing, only if the student is under age 18. We encourage parents and students to discuss this information.