



State of New Jersey

DEPARTMENT OF EDUCATION

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August 1, 2011

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

FROM: Christopher D. Cerf
Acting Commissioner

SUBJECT: Notice of Proposed Rulemaking for Family Education Rights and Privacy Act and Requests for Student Information from Military Recruiters, Institutions of Higher Education, and Prospective Employers

This information is being provided to remind districts of the provisions contained in Title IX (section 9528) of the *No Child Left Behind (NCLB) Act of 2001* 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 United States Department of Education (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. Further information regarding FERPA, can be found as follows:

- On April 8, 2011, the USDE released a Notice of Proposed Rule Making (NPRM) under FERPA. The proposed regulations would give states the flexibility to share data to ensure that taxpayer funds are invested wisely in effective programs and students' personal information is properly safeguarded and used only for legitimate purposes and only when absolutely necessary. Additional information about the NPRM can be accessed at <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.

- Final FERPA Regulations were released on December 9, 2008. Information about these regulations is available as follows:
 - ✓ Final FERPA Regulations (12/9/2008):
<http://www.ed.gov/legislation/FedRegister/finrule/2008-4/120908a.pdf>.
 - ✓ “Dear Colleague” letter (12/17/2008) about the FERPA final regulations:
<http://www.ed.gov/policy/gen/guid/fpco/hottopics/ht12-17-08.html>
 - ✓ Section-by-Section Analysis of Regulations
<http://www.ed.gov/policy/gen/guid/fpco/pdf/ht12-17-08-att.pdf>
 - ✓ Letter to Superintendents
<http://www.ed.gov/policy/gen/guid/fpco/doc/pprasuper.doc>
- The *Model Notification of Rights under FERPA for Elementary and Secondary Schools* that can be issued to parents and adult students is posted here:
<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/lea-officials.html> This document outlines the provisions of this requirement that authorize the release of student information under specific circumstances. It is recommended that you use this notice to inform parents of these FERPA requirements.

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 NCLB Act 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>
- A joint letter prepared by the United States Department of Education (USDE) and United States Department of Defense (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-327.1, Student Records).
- To ensure compliance in this area, all schools receiving assistance under the *Elementary and Secondary Education (ESEA) Act of 1965*, as amended by the *No Child Left Behind Act of 2001* (P.L. No. 107-110), 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 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 *NCLB* 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 Student Achievement and Accountability via email at: titleone@doe.state.nj.us.

CC\BG\T\Title IX\2011-2012\BroadcastLetter.doc

c: Members, State Board of Education
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