

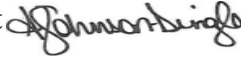
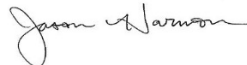


THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

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TO: BOCES Superintendents
School District Superintendents
Charter School Leaders

FROM: Angelique Johnson-Dingle, Deputy Commissioner, P-12 Instructional Support 
Jason Harmon, Deputy Commissioner, P-12 Operational Support


DATE: November 16, 2022

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

This memorandum is to remind all local educational agencies (LEAs) that receive funds under the *Elementary and Secondary Education Act of 1965* (ESEA), as amended by the Every Student Succeeds Act (ESSA), that they are required to provide **military recruiters, institutes of higher education** (IHEs), and/or **prospective employers** with student names, addresses and telephone numbers, as well as access to the students, upon request.¹

This requirement is contained in section 8528 of ESEA² as well as the *Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001* (the “DoD law”) and subsequent amendments (10 U.S.C. §503). Additionally, Section 2-a of the New York State Education Law provides authority for armed forces recruiters to access students.

This authority supersedes any right to privacy codified under FERPA or NYS Education Law § 2-d. LEAs and their constituent schools are required to comply with these ESEA and DoD requirements regardless of their “directory information” policy. LEAs acknowledge this requirement every year when signing the annual *Assurances and Certifications for Federal Program Funds* document.

Thus, schools must provide this information unless a parent or eligible student (age 18 or over) has “opted-out” of providing this information in writing. LEAs may not withhold access to a student’s information by implementing an “opt-in” process. Please ensure that parents and students, as applicable, are notified of these requirements and given the opportunity to exercise the “opt-out” option. LEAs who have not already done so are to provide this notice as soon as

¹ While the requirement under ESEA applies only to public schools receiving ESEA funds, the DoD law described herein applies to both public and private secondary schools that receive funding under ESEA *unless the private school maintains a documented, verifiable religious objection to service in the Armed Forces.*

² 20 USC § 7908.

practicable upon receipt of this guidance and every year thereafter at the beginning of the school year, so parents and students can make timely and informed decisions.

LEAs are encouraged to review the United States Department of Education's [Dear Colleague Letter](#) regarding ESEA's military provisions, which provides details regarding these requirements.

For questions regarding these requirements, contact the Office of P-12 Education at NYSEDP12@nysed.gov or (518) 474-3862.

cc: Jim Baldwin
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Daniel Morton-Bentley
Louise DeCandia