

111TH CONGRESS
1ST SESSION

H. R. 1026

To amend the procedures regarding military recruiter access to secondary school student recruiting information.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2009

Mr. HUNTER (for himself, Mr. AKIN, Mrs. BACHMANN, Mr. BARTLETT, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. BROUN of Georgia, Mr. BROWN of South Carolina, Mr. BURTON of Indiana, Ms. FALLIN, Mr. FORTENBERRY, Ms. FOXX, Mr. GINGREY of Georgia, Mr. HENSARLING, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, Mr. KING of Iowa, Mr. KLINE of Minnesota, Mr. LAMBORN, Mrs. LUMMIS, Mr. MCCAUL, Mr. MCKEON, Mr. OLSON, Mr. PITTS, Mr. PRICE of Georgia, Mr. ROONEY, Mr. SCALISE, Mrs. SCHMIDT, Mr. WAMP, Mr. WESTMORELAND, Mr. BOEHNER, Mr. BILBRAY, Mr. FRANKS of Arizona, Mr. CALVERT, and Mr. CHAFFETZ) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the procedures regarding military recruiter access to secondary school student recruiting information.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fairness for Military
3 Recruiters Act”.

4 **SEC. 2. ACCESS TO STUDENT RECRUITING INFORMATION.**

5 (a) CHANGES TO THE ELEMENTARY AND SEC-
6 ONDARY EDUCATION ACT OF 1965.—Section 9528(a) of
7 the Elementary and Secondary Education Act of 1965 (20
8 U.S.C. 7908(a)) is amended—

9 (1) by striking paragraphs (1) and (2) and in-
10 serting the following:

11 “(1) ACCESS TO STUDENT RECRUITING INFOR-
12 MATION.—Notwithstanding section 444(a)(5)(B) of
13 the General Education Provisions Act, each local
14 educational agency receiving assistance under this
15 Act shall provide, upon a request made by a military
16 recruiter or an institution of higher education, ac-
17 cess to the name, address, and telephone listing of
18 each secondary school student served by the local
19 educational agency, unless the parent of such stu-
20 dent has submitted the prior consent request under
21 paragraph (2).

22 “(2) CONSENT.—

23 “(A) OPT-OUT PROCESS.—A parent of a
24 secondary school student may submit a written
25 request, to the local educational agency, that
26 the student’s name, address, and telephone list-

1 ing not be released for purposes of paragraph
2 (1) without prior written consent of the parent.
3 Upon receiving such request, the local edu-
4 cational agency may not release the student’s
5 name, address, and telephone listing for such
6 purposes without the prior written consent of
7 the parent.

8 “(B) NOTIFICATION OF OPT-OUT PROC-
9 ESS.—Each local educational agency shall no-
10 tify the parents of the students served by the
11 agency of the option to make a request de-
12 scribed in subparagraph (A).”; and

13 (2) by adding at the end the following:

14 “(4) RULE OF CONSTRUCTION PROHIBITING
15 OPT-IN PROCESSES.—Nothing in this subsection
16 shall be construed to allow a local educational agen-
17 cy to withhold access to a student’s name, address,
18 and telephone listing from a military recruiter or in-
19 stitution of higher education by implementing an
20 opt-in process or any other process other than the
21 written consent request process under paragraph
22 (2)(A).

23 “(5) PARENTAL CONSENT.—For purposes of
24 this subsection, whenever a student has attained
25 eighteen years of age, the permission or consent re-

1 quired of and the rights accorded to the parents of
2 the student shall only be required of and accorded
3 to the student.”.

4 (b) CHANGES TO TITLE 10 OF THE UNITED STATES
5 CODE.—Section 503(c) of title 10, United States Code,
6 is amended—

7 (1) by striking paragraph (1) and inserting the
8 following: “(1)(A) Each local educational agency re-
9 ceiving assistance under the Elementary and Sec-
10 ondary Education Act of 1965—

11 “(i) shall provide to military recruiters the
12 same access to secondary school students as is pro-
13 vided generally to postsecondary educational institu-
14 tions or to prospective employers of those students;
15 and

16 “(ii) shall provide, upon a request made by a
17 military recruiter for military recruiting purposes,
18 access to the name, address, and telephone listing of
19 each secondary school student served by the local
20 educational agency, notwithstanding section
21 444(a)(5)(B) of the General Education Provisions
22 Act (20 U.S.C. 1232g(a)(5)(B)), unless the parent
23 of such student has submitted the prior consent re-
24 quest under subparagraph (B).

1 “(B)(i) The parent of a secondary school student may
2 submit a written request, to the local educational agency,
3 that the student’s name, address, and telephone listing not
4 be released for purposes of subparagraph (A) without
5 prior written parental consent. Upon receiving a request,
6 the local educational agency may not release the student’s
7 name, address, and telephone listing for such purposes
8 without the prior written consent of the parent.

9 “(ii) Each local educational agency shall notify par-
10 ents of the option to make a request described in clause
11 (i).

12 “(C) Nothing in this paragraph shall be construed to
13 allow a local educational agency to withhold access to a
14 student’s name, address, and telephone listing from a mili-
15 tary recruiter or institution of higher education by imple-
16 menting an opt-in process or any other process other than
17 the written consent request process under subparagraph
18 (B)(i).

19 “(D) PARENTAL CONSENT.—For purposes of this
20 paragraph, whenever a student has attained eighteen
21 years of age, the permission or consent required of and
22 the rights accorded to the parents of the student shall only
23 be required of and accorded to the student.”;

24 (2) by striking paragraphs (2), (3), and (4) and
25 inserting the following:

1 “(2)(A) If a local educational agency denies recruit-
2 ing access to a military recruiter under this section, the
3 Secretary shall notify—

4 “(i) the Governor of the State in which the
5 local educational agency is located; and

6 “(ii) the Secretary of Education.

7 “(B) Upon receiving a notification under subpara-
8 graph (A), the Secretary of Education—

9 “(i) shall, consistent with the provisions of part
10 D of title IV of the General Education Provisions
11 Act (20 U.S.C. 1234 et seq.), determine whether the
12 local educational agency is failing to comply substan-
13 tially with the requirements of this subsection; and

14 “(ii) upon determining that the local edu-
15 cational agency has failed to comply substantially
16 with such requirements, may impose a penalty, or
17 enforce a remedy, available for a violation of section
18 9528(a) of the Elementary and Secondary Edu-
19 cation Act of 1965 (20 U.S.C. 7908(a)) in the same
20 manner as such penalty or remedy would apply to a
21 local educational agency that violated such section.”;

22 (3) by redesignating paragraphs (5) and (6) as
23 paragraphs (3) and (4), respectively; and

24 (4) in paragraph (4) (as redesignated by para-
25 graph (3) of this section)—

1 (A) by striking subparagraphs (C), (E),
2 and (F); and

3 (B) by redesignating subparagraph (D) as
4 subparagraph (C).

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