



To: Dean of Students
Registrar

Fr: Thuy Thi Nguyen, Interim General Counsel 

Date: February 4, 2016

Re: Military Recruitment Request for Students List (Solomon Amendment)
Legal Advisory 16-01

The Board of Governors of the California Community Colleges received a request from an Education Services Specialist from the U.S. Army Recruiting Battalion regarding the acquisition of student information from local California community colleges under the Solomon Amendment. Under federal law, the Solomon Amendment supersedes most elements of Family Educational Rights and Privacy Act (FERPA) and permits for the disclosure of student information if the request conforms to the parameters and requirements set forth in the law.

Legal Authority under the Solomon Amendment

The Solomon Amendment (10 U.S.C. §503) allows military organizations access to education records and information ordinarily restricted under FERPA for the purposes of military recruiting. The Solomon Amendment supersedes most elements of FERPA and requires colleges to release certain information pertaining to their students. Colleges that fail to comply with the Solomon Amendment risk losing funds from several federal agencies, including: the Departments of Education, Labor, Health and Human Services, and Defense (10 U.S.C. §983).

Scope of the Request

The Solomon Amendment allows the Department of Defense entities, such as the U.S. Army, to obtain certain information about currently enrolled full-time students, ages 17 and over, once per term. This information is limited to:

1. Student names
2. Addresses
3. Phone numbers

4. Age
5. Level of education
6. Degree program currently enrolled in
7. Degrees received for recent graduates
8. Educational institutional last enrolled in

The request letter should be sent on the Department of Defense entity's standard letterhead and must cite the relevant legal authority under the Solomon Amendment. In addition, the scope of the request must specifically ask for the aforementioned information. Specifically, a request for information pertaining to a particular group of students between certain ages is permitted and encouraged to clearly define the scope of the request (e.g. "full-time undergraduate students between the ages of 17 and 35).

Exceptions and Exemptions to Request

The Solomon Amendment requires educational institutions to disclose student information in its possession, but does not actively require institutions to collect student information. As such, institutions are exempt from responding if they do not currently collect or have any responsive information.

In addition, the Solomon Amendment does recognize student and parental rights under FERPA to withhold disclosure of private information. Students and/or parents of students can request that a local educational agency withhold student information unless prior written consent is obtained from the students and/or parents (10 U.S.C. §503(c)(B)).

What Colleges Need to Do

Upon receiving a request under the Solomon Amendment, colleges should confirm if the request meets the requirements set forth in the law.

If the requirements are met, colleges should then determine if the defense entity has made any recent requests within the school term since each entity is only allowed one request per term. Though not legally required, the colleges should also reach out to the recruiting specialist to confirm the specialist's identity and validate the request. This practice would not only ensure that the request is coming from someone who is legally authorized to make such a request, but would also allow the colleges to clarify the scope of the request over the phone if needed. If a change to the scope is made, a confirming letter detailing the phone call and any changes should be sent to the requestor immediately.

Once the request has been validated, the college should then check to see if it collects the student data that is requested and if any students and/or parents exercised their FERPA rights to withhold student information before authorizing disclosure by written consent. Colleges that do not

collect student data should notify the requestor in writing within a reasonable time that the college does not have any responsive information to the request.

Lastly, the colleges that have responsive information should provide the requested data within a reasonable time period or run the risk of losing federal funding under Title 10, U.S.C. Section 983. A best practice would be to send a confirming letter to the requestor within a reasonable time to inform the requestor that the college does have responsive student information. More importantly, the letter should advise the requestor that the college is in the process of obtaining the responsive information and such information will be provided within a reasonable time period.

TTN/pvk