



ACLU FOUNDATION OF SOUTHERN CALIFORNIA

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By Facsimile and Regular Mail

October 27, 2005

Superintendent Gwen Gross
Manhattan Beach Unified School District
325 South Peck Ave.
Manhattan Beach, CA 90266
Fax: 310-303-3822

Dear Superintendent Gross:

We write on behalf of Joshua Goldman, a junior at Mira Costa High School, to urge the School District to allow Mr. Goldman to exercise his free speech rights.

On October 5, 2005, Mr. Goldman handed out flyers relating to military recruitment of high school students to his classmates during lunch. He did not disrupt school activities in any way, and the flyers, a copy of one of which is attached hereto, are not obscene, libelous, or otherwise objectionable. On the same day, Mr. Goldman also placed a handful of posters relating to the presence of military recruiters on campus on stop-sign poles in the school parking lot and underneath city parking-sign poles on public property near the school. School administrators apparently removed Mr. Goldman's posters from both school and public property. A week later, Vice Principal Herbert Hinsche informed Mr. Goldman and his mother that in the future, Mr. Goldman would not be allowed to distribute flyers without obtaining prior approval from the school administration of the flyers.

A school policy requiring prior approval violates Mr. Goldman's free speech rights under applicable law. As you know, California public school students enjoy broad free speech rights, including the right to distribute "printed materials." Cal. Educ. Code § 48907. This right may not be infringed unless such material is obscene, libelous, slanderous, or incites others "so as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school." *Id.* Mr. Goldman's flyer, which conveys a pro-peace message and seeks to educate readers about enlisting in the military, is not obscene, libelous, or at all likely to incite readers to disrupt school activities.

In addition, under Section 48907, schools may not require prior approval of materials except, in limited circumstances, with respect to official school publications. Non-official school publications, such as Mr. Goldman's flyer, may not be subject to any pre-approval or review process before they are distributed by students. See also Bright v. Los Angeles Unified School District, 18 Cal.3d 450 (Cal. 1976) (invalidating school district rules requiring submission to school officials of "underground" student newspaper prior to distribution).

Although Mr. Goldman does not plan to place posters on the school's stop-sign poles or grounds at this time, he is eager to continue distributing his flyers to fellow students during lunch and before and after school, in order to educate them on the issue of military careers, as soon as possible. We seek your immediate assurance that he will not face punishment for peacefully distributing his flyers, and that he need not obtain prior approval to distribute them. See Cal. Educ. Code § 48950 (prohibiting discipline of students based on protected free speech activity). We also would very much appreciate getting a copy of the district's publications' code pursuant to Cal. Educ. Code § 48907.

We hope to resolve this matter promptly and amicably. We would appreciate getting a response no later than Monday October 31, 2005. Please contact Sophie Fanelli at 213-977-5208 at your earliest convenience.

Sincerely,

Ranjana Natarajan / JB
Ranjana Natarajan
Staff Attorney

S Fanelli
Sophie Fanelli
Research Fellow

Questions the Army Doesn't Want You to Ask

Army recruiters are here to glorify war – and then sell it to you. Like cigarette companies, recruiters will say anything to get you hooked.

Job Skills? Why do veterans earn less than similar non-veterans? Why are veterans imprisoned more often? Why are 1/3 of all homeless people veterans? Why did Former Secretary of Defense Cheney state that the military is “not a jobs program” but exists to prepare to “fight and win wars?”

Money for College? Why do 65% of recruits who pay the required \$1200 into the Montgomery GI Bill never get a dime in return?

Discipline? How does getting yelled at and ordered around provide self-discipline? Why is it a crime in the military to talk back to your boss or quit your job?

Women in the Military? Why do the Veterans Administration's own figures show 90% of recent women vets reporting sexual harassment—1/3 of whom were raped?

Discrimination? Why do people of color make up 35% of the enlisted people in the military, but only 15% of the officers?

Adventure? Does dropping bombs on kids really sound like fun? How about killing or dying for oil?

*Financing College Without Joining the Military and
Joining the Military Is Hazardous to Your Education*
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**WAR IS NOT THE
ANSWER**



**STOP THE PRESENCE OF
MILITARY RECRUITERS IN
OUR SCHOOL**