
Speaking about Alternatives to Military Service in California Public Schools



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Information for California parents, community members and other non-students.

WHAT THE LAW SAYS:

The First Amendment to the U.S. Constitution: “Congress shall make no law . . . abridging the freedom of speech, or of the press, or of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Article 1, Section 2(a) of the California Constitution: “Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.”

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This brochure provides information about your right to speak, pass out flyers, or otherwise express yourself in California public schools about issues relating to the military.

Freedom of speech and expression are guaranteed by the First Amendment to the U.S. Constitution and by Article 1, Section 2 of the California Constitution.

BACKGROUND:

In January 2002, Congress passed the “No Child Left Behind Act,” a law addressing academic standards, teacher quality, and school safety. One provision of the law requires schools to give military recruiters the same access to students as they do institutions of higher education and employers.

The “No Child Left Behind Act” also requires school districts receiving federal funds to provide student names, addresses, and phone numbers on request to various branches of the United States military for recruiting purposes. “No Child Left Behind” provides protections...

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...for families who do not wish to be recruited by the military. It requires that schools give students and parents notice of the opportunity to opt-out of the information distribution before it is made available to military recruiters or institutions of higher learning.

As more and more military recruiters have sought to recruit students on public school campuses, parents and community members have sought to inform high school students of the drawbacks of joining the military.

SO, WHAT CAN YOU DO?

There are many avenues available to parents and community members who want to talk to high school students about military service. Options include leafleting, presenting at a career fair, working with groups like the PTA, connecting with counter-recruitment groups in your area and working with local school districts.

1. LEAFLETING OR PICKETING IN FRONT OF PUBLIC SCHOOLS:

Picketing or leafleting on public property near school grounds such as the public sidewalk in front of a school is constitutionally protected.

- In general, you don't need a permit to leaflet or picket in front of a public school, unless you plan on organizing a march or a rally that does not stay on the sidewalk.
- Picketing or leafleting should be orderly and non-disruptive so that pedestrians can pass by and entrances and exits to buildings are not blocked, and so long as you do not significantly disrupt the normal operations of the school. Pickets are not required to keep moving but may remain in one place as long as they leave room on the sidewalk for others to pass.
- When you distribute literature or flyers to pedestrians on sidewalks, be sure not to block entrances to buildings and don't stop or block passers-by.

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➤ If you are worried that your lawful speech activities could be challenged or if you are confronted by school administrators or the police:

- Remain calm and polite
- Explain your rights (constitutionally protected activities) and that no permit is required
- Explain that you are not loitering
- Use common sense, be in pairs, document your activities with a camera or by taking photos (i.e. proof you're on public sidewalk, not blocking traffic, not causing disorderly conduct, etc.)

2. SPEECH ACTIVITIES INSIDE PUBLIC SCHOOLS:

- In general, school administrators do not have to allow non-students to distribute literature, hold rallies, or engage in any other form of expressive activity on school grounds, in school publications and at school events.
- School administrators may even restrict access to public school property and they do not have to let non-students onto school grounds for political or free speech activities.
- In general, with respect to issues that are not curriculum related, if schools do allow speakers on a particular topic, they can't exclude other speakers on the same topic because of their view-point alone. A school that gives military recruiters access to a public forum must give equal access to other recruiters.

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FOR EXAMPLE:

- You should be able to speak at Career Day events regarding the drawbacks of military service if others have been invited to speak about military service.
- You should be able to put up educational posters or place pamphlets in the counseling office regarding the drawbacks of military service or promoting alternative careers if the school allows posters or brochures promoting military service.

WHAT THE LAW SAYS:

The law provides that when a school district allows military recruiters to distribute pro-military information in a particular school forum, the district may not exclude information that is anti-military from the same forum. (*San Diego Committee Against Registration And The Draft (CARD) v. Grossmont Union High School District*, 790 F.2d 1471 (9th Cir. 1986)) In the CARD case, the Ninth Circuit Court of Appeals ruled that a school district's exclusion of an anti-military group's advertisements from the school newspapers that allowed military recruitment ads violated the First Amendment.

SO, WHAT CAN YOU DO?

- First, make sure that the materials you plan on posting or distributing at the school are age appropriate and are not obscene, libelous, or create an immediate danger of causing others to commit unlawful acts, violate school rules, or substantially disrupt school.
- Most local districts and schools have well-established health and safety policies restricting visitors' access to high school campuses. Read the policy ahead of time and follow district rules. (For instance, schools often require non-students to sign in before entering the school, stay in designated areas, or plan your visit in advance, etc.)

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