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October 19, 2012

Dr. Tim Hatfield
Superintendent
Camdenton R-III School District
P.O. Box 1409
Camdenton, Missouri 65020

By First Class Mail and Facsimile to (573) 346-9211

Subject: *Armed Services Vocational Aptitude Battery* Testing & Reporting

Dear Dr. Hadfield:

We have been contacted by a number of students at the Camdenton High School regarding the upcoming *Armed Services Vocational Aptitude Battery* ("ASVAB") testing. These students have expressed a well-grounded concern that the test results and "directory information" (e.g., name, social security number, etc.) will be provided to the military upon submission of the tests for grading.

The United States Military Entrance Processing Command ("MEPCOM") allows schools to select one of eight options with respect to the reporting (or not) of test results to recruiters and subsequent student contacts by recruiters.

Release Option	Results to Recruiting Services and Contacts
Option 1	7 days after test results are mailed to school; no limits on contact with students.
Option 2	60 days after test results are mailed to school; no contact with students prior to that time.
Option 3	90 days after test results are mailed to school; no contact with students prior to that time.
Option 4	120 days after test results are mailed to school; no contact with students prior to that time.
Option 5	End of School year; no contact with students prior to that time.
Option 6	7 days after test results are mailed to school; no telephone solicitation by recruiters.
Option 7	Not valid for enlistment purposes; Results not released to Recruiting Services.
Option 8	Not released to Recruiting Services.

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Schools should inform students and parents of the impending disclosure of information they face and should, as a default, select “Option 8,” which would allow parents and students the choice of deciding what information to provide the military.

However, regardless of what option Camdenton ultimately selects, we are writing to remind you of your legal obligations under the *No Child Left Behind Act* (“NCLB”) and the *Privacy Act*.

As you know, under the *NCLB*, schools must allow parents and students to “opt-out” of the release of directory information and must provide students and parents with notification that they can opt-out. *See Section 9528 of the No Child Left Behind Act of 2001*. Given the seeming disconnect between opting out of the release of directory information and the practical effect of Options 1- 6, MEPCOM has established procedures to process tests given by high schools under what they call the “split option.” Specifically, “if a list is provided to test administrators with students that have opted out, those tests will be processed under Option 8, while the remaining tests are processed under an option [selected by the school] that allows results to be released to recruiters.” *See* Major (U.S. Army) Gregory Humble, “Why Schools Do Not Release ASVAB Scores to Military Recruiters, published 6 August 12, at p. 43. Mr. Don Hill at MEPCOM (847/688-3680 x 7507) confirmed, on October 19, 2012, that this option is available for all schools –like Camdenton– that use the ASVAB. He stressed it was imperative that schools provide the list of students who have opted out because “we are not clairvoyant” as to which parents and students have opted out under NCLB because the opt-out is submitted to the school and the obligation to comply with opt-outs rests with the schools.

As to Camdenton’s obligation under the *Privacy Act*: “It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual’s refusal to disclose his social security account number.” 5 U.S.C. § 552a (note) (2010), Pub.L. 93–579 at § 7(a)(1). Furthermore, “[a]ny Federal, State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.” *Id.* at § 7(b).

While the ASVAB does ask for social security numbers, this information is neither mandatory nor necessary to grade the test. Again, Mr. Hill at MEPCOM informed me, on October 19, 2012, that the exam asks for a social security number but this “guidance is out of date.” (NOTE: He did say, however, that providing the social security number would be a good idea for those “considering a military career” because recruiters will be able to find the results faster and it could prevent the need to re-take the exam if the results are not found). Therefore, Camdenton should not require students to provide their social security numbers on the ASVAB.

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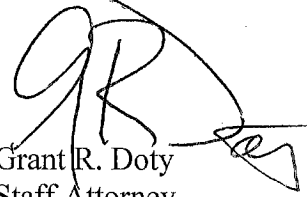
So we can inform the students who contacted us that Camdenton will meet its obligations under both the *NCLB Act* and the *Privacy Act*, prior to them taking the exam, please let us know the following by Tuesday, October 23, 2012:

- (1) which of the options (1-8) Camdenton will select regarding reporting ASVAB results to recruiters and recruiter-student contacts;
- (2) if Camdenton will not select Option 8, whether it will submit a list of students who have opted out (or whose parents have opted them out) so the exam will be graded under the "split option" offered by MEPCOM;
- (3) whether Camdenton R-III has met its obligations under the *NCLB* to inform parents and students of their option to "opt-out" of the release of directory information; and
- (4) whether students will be required to provide their social security number to take the ASVAB exam.

After we hear from you, we will consult with these students regarding their legal options. If we do not hear from you, then we will assume that you plan to (1) proceed under some option other than Option 8, (2) not allow grading under the split option, and (3) require students to provide their social security numbers, as we have been advised.

If you have any questions, please do not hesitate to contact me at grant@aclu-em.org or 314/669-3422.

Respectfully,



Grant R. Doty
Staff Attorney