

**STATE OF NORTH CAROLINA  
COUNTY OF WILKES**

**IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CIVIL ACTION NO: \_\_\_\_\_**

**NORTH CAROLINA PEACE ACTION,  
INC., a North Carolina non-profit  
corporation; SALLY FERRELL, an  
individual; and BILL TOWE, an individual,**

**Plaintiffs,**

**v.**

**WILKES COUNTY SCHOOL DISTRICT,  
and STEPHEN C. LAWS, individually and  
in his capacity as superintendent of schools**

**Defendants.**

**COMPLAINT**

**INTRODUCTION**

Plaintiffs in this case are pacifists who seek to vindicate a value at the core of the First Amendment to the United States Constitution: the right not to be discriminated against on the basis of their viewpoint. Defendants have long permitted military recruiters to enter Wilkes County schools to provide information on military careers to Wilkes County students. Yet for more than three years, Defendants have refused to give Plaintiffs meaningful access to the schools to offer their perspective on that very same topic as well as other career opportunities. Now, as a last resort, Plaintiffs bring this suit to enjoin Defendants from violating the First Amendment, as well as Article I, Section 14 of the North Carolina Constitution.

## **JURISDICTION**

1. This action is brought under 42 U.S.C. §1983. The court has authority under N.C. Gen. Stat. §1-253 et seq. (the Uniform Declaratory Judgment Act) to provide appropriate declaratory relief as to matters within its jurisdiction.

## **PARTIES**

2. Plaintiff North Carolina Peace Action, Inc. (“N.C. Peace Action”) is a non-profit corporation, incorporated under the laws of North Carolina, with its principal place of business in Raleigh, Wake County, North Carolina. N.C. Peace Action, through its national organization, provides educational and civic programs for youth, such as its Student Peace Action Network.

3. Plaintiff Sally Ferrell (“Ms. Ferrell”) is a member of N.C. Peace Action who resides in Boomer, Wilkes County, North Carolina.

4. Plaintiff Bill Towe (“Mr. Towe”) is a member of N.C. Peace Action who resides in Cary, Wake County, North Carolina.

5. Defendant Wilkes County School District (the “School District”) is a political subdivision of the State of North Carolina. The District’s headquarters are located at 613 Cherry Street, North Wilkesboro, Wilkes County, North Carolina.

6. Defendant Stephen C. Laws (“Superintendent Laws”) is, and was at all relevant times, the superintendent of the Wilkes County School District. Superintendent Laws is, and was at all relevant times, acting under color of state law. In his capacity as Superintendent, Superintendent Laws is responsible for, *inter alia*, ensuring that the school district and its officials and employees act in conformity with the United States Constitution and applicable federal and state laws. He is sued in both his individual and official capacities.

## FACTUAL ALLEGATIONS

7. On information and belief, the School District and Superintendent Laws permit recruiters from the various branches of the United States Armed Forces to enter Wilkes County high schools, set up tables, speak with interested students about military careers, and provide written materials discussing military careers.

8. Since March 2005, Ms. Ferrell, who is a pacifist, has been seeking meaningful access in order to speak to interested Wilkes County high school students about public service careers in fields other than the military (such as Peace Corps and Americorps), in the course of which she would also provide students with truthful, job-related information regarding military careers.

9. In providing information regarding military careers, Ms. Ferrell has sought to speak on the very same topics that the military recruiters address, including the substance of military commitments, working conditions in the military, the training provided to military recruits, the details of the New GI Bill, other college options available through the military, and other truthful, job-related information. Ms. Ferrell has asked for the same access afforded to military recruiters: the opportunity to enter the high schools, set up tables, and provide oral and written information on military careers and non-military public service opportunities to students. She has never sought to speak to students who do not wish to speak with her.

10. Ms. Ferrell's quest for access began more than three years ago, in March 2005. Ms. Ferrell contacted Superintendent Laws via letter, explaining her desire to present information on peaceful careers while offering balance to the information presented by military recruiters. A copy of the letter is attached hereto as Exhibit A. Specifically, Ms. Ferrell stated

that her goal was “to help young people look at career, vocational, and educational funding opportunities outside of military service, (for example Job Corp[s] and Americorp[s]) so that they may make informed decisions about their futures.” Like the military recruiters, Ms. Ferrell requested access to recruiter tables in order to speak to interested students during their lunch hour.

11. In 2005, Superintendent Laws denied Ms. Ferrell’s request. Superintendent Laws and members of the Wilkes County School Board verbally informed Ms. Ferrell that she was just being negative, and that the students should not hear anything that shows the military in an unfavorable light. Ms. Ferrell was also told that granting her access to students was not necessary because they were already exposed to the other side of the debate from watching television.

12. On September 1, 2005, the American Civil Liberties Union of North Carolina Legal Foundation (“ACLU-NCLF”) sent a letter on Ms. Ferrell’s behalf to Superintendent Laws, expressing concern with the School District’s refusal to permit access. A copy of the letter is attached hereto as Exhibit B. The letter expressed the concern that Ms. Ferrell was being denied access solely on the basis of her viewpoint, in violation of the First Amendment. The letter also sought copies of any School District policies regarding access given to career recruiters, including military recruiters, at the Wilkes County high schools. No policies were provided in response.

13. During the latter part of 2005 and early 2006, the School District responded to the ACLU-NCLF, stating that the School District was devising a new policy regarding employment

and military recruitment. The School District adopted the new policy in July 2006. It provides, in relevant part:

Policy on Recruiters:

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The Board of Education acknowledges the legal requirement that if military recruiters are permitted to have access to students on campus, equal access must be provided to organizations that wish to present alternatives to military service, such as the Peace Corps and Americorps. This policy of equal access does not include individuals or ad hoc collections of individuals. Organizations must have some degree of established form and ongoing public purpose. Principals may require some tangible proof of organizational status, such as evidence of incorporation or other organizational creation, evidence of tax-exempt status, or evidence of an established office.

Wilkes County School District Policy 5240 (the “Recruiters Policy”) is attached hereto as Exhibit C.

14. On October 13, 2006, in compliance with the Recruiters Policy, Ms. Ferrell again sought access to the Wilkes County high schools, this time as a representative and a member of Plaintiff N.C. Peace Action. She provided “tangible proof of organization status” in the form of a copy of N.C. Peace Action’s registration with the North Carolina Secretary of State. A copy of a letter to one of the principals and Superintendent Laws is attached hereto as Exhibit D.

15. Despite Ms. Ferrell’s and N.C. Peace Action’s compliance with the new Recruiters Policy, Superintendent Laws again denied Ms. Ferrell direct access to students at Wilkes County high schools. *See* Letter from Superintendent Laws dated October 23, 2006, attached hereto as Exhibit E. Specifically, Superintendent Laws asserted that Ms. Ferrell and N.C. Peace Action were not entitled to access under Policy 5240 because N.C. Peace Action was not itself offering positions to students. *See id.* This newly articulated rationale does not appear in School District Policy 5240.

16. Nevertheless, in an effort to resolve this matter without litigation, during November and December 2006, Ms. Ferrell attempted to seek direct access to Wilkes County high school students by contacting each of the five Wilkes County high school principals, as directed by the policy. She received access to only one high school – West Wilkes High. The other four principals either refused to respond to Ms. Ferrell’s request or informed her that they were seeking written authorization from Superintendent Laws before they would allow her access to the students. Upon information and belief, Superintendent Laws had informal discussions with each of the Wilkes County principals, in which he counseled them to refuse access to Ms. Ferrell and N.C. Peace Action. On December 7, 2006, the ACLU-NCLF sent a letter to Superintendent Laws on behalf of Ms. Ferrell and N.C. Peace Action, seeking assurances that Ms. Ferrell and N.C. Peace Action would be granted direct access to students under the Recruiters Policy. A copy of this letter is attached hereto as Exhibit F.

17. In the Spring of 2007, N.C. Peace Action was granted access to the schools. Superintendent Laws sent a memo to principals informing them that N.C. Peace Action was approved for access and that “accurate information which some might interpret as criticism or as discouragement is permissible.” A copy of this memo is attached hereto as Exhibit G. Ms. Ferrell visited all five high schools and received no complaints from parents, students, or teachers. 470 students stopped at Ms. Ferrell’s table and picked up one or more items.

18. Despite the lack of incident during Ms. Ferrell’s visits, the Defendants soon changed course to limit Ms. Ferrell’s access once again. In September 2007, one of the principals told N.C. Peace Action that some of the literature that Ms. Ferrell wished to hand out to students in person were discouraging enlistment and could not be brought to the school. Ms.

Ferrell immediately appealed the restrictions on her literature via email to Superintendent Laws. Superintendent Laws did not respond to her appeal.

19. When Ms. Ferrell, on behalf of N.C. Peace Action, attempted to schedule the second visit of the fall semester, her emails and phone calls to the principals went unanswered. Eventually, one principal told her that he understood Ms. Ferrell and N.C. Peace Action would not be allowed access to his student body.

20. On February 12, 2008, the school board attorney informed Ms. Ferrell via letter that she would not be allowed to hand out the literature in person, but would instead only be permitted to apply to have the literature placed on a table in the schools for “passive distribution,” with no opportunity to explain the material or answer questions. On information and belief, the military is not limited to passive distribution of literature containing truthful, job-related information on military careers. The school board attorney’s letter also did not specify whether Ms. Ferrell would be allowed to speak to students about military careers. A copy of the February 12 letter is attached hereto as Exhibit H.

21. The next fall, at the beginning of the 2008 school year, Ms. Ferrell sent requests for access to each of the five Wilkes County high school principals via email, in accordance with the Recruiters Policy. Ms. Ferrell expressed her desire to “provide students with information regarding public service careers in fields other than the military as well as truthful, job-related information on military careers.” Similar to previous requests, Ms. Ferrell asked for the access afforded military recruiters: namely, the opportunity to “set up a table, speak with students, and distribute written materials during lunch one day during the month of September.” A copy of one of these emails is attached hereto as Exhibit I. Mr. Towe, an individual who is a military

veteran, and another member of N.C. Peace Action who is a former Americorps volunteer, intended to accompany Ms. Ferrell on some or all of these visits.

22. In response to Ms. Ferrell's email, several of the principals requested a copy of the materials Ms. Ferrell and Mr. Towe wished to distribute during their visits. On or about September 2, 2008 Ms. Ferrell sent each principal a packet of the materials she and the other Plaintiffs wished to distribute during their visits to the high schools.

23. On September 5, 2008, Ms. Ferrell received a response to her submission of materials to the principals in the form of an email from Superintendent Laws. In his response Superintendent Laws specifically addressed the literature that Ms. Ferrell previously had not been allowed to bring, and said, "I will assume that this information is for the designated student information area in each school and not for dispersal at the recruiting table." He also stated that "Our policy regarding negative recruiting at schools has not changed." A copy of this email is attached as Exhibit J. On information and belief, military recruiters are not required to disperse their written materials via the "designated student information area."

24. In a final effort to exercise her constitutional rights without the necessity of litigation, Ms. Ferrell sent an email on September 12, 2008 requesting access to the high schools. She agreed not to distribute in person the publication that, on information and belief, Superintendent Laws most disagreed with, despite her constitutional right to do so, "out of respect for [his] reaction to that pamphlet and in the hope that we may reach an agreeable compromise on this issue." Ms. Ferrell sought permission to bring other pamphlets which had previously been rejected by Superintendent Laws. She also again sought a clear expression of permission to speak with interested students about military careers, and enumerated examples of

the truthful, job-related information she wished to relate. A copy of that request is attached hereto as Exhibit K.

25. On September 14, 2008, Superintendent Laws denied the Plaintiffs' request for access to the Wilkes County high schools on the terms Ms. Ferrell proposed. Specifically, Superintendent Laws stated "We will not allow negative or counter recruiting to occur at our student access recruiting tables. Until such time as you can present to me in writing your willingness and commitment to abide by Wilkes County Board of Education policy, your access to students at recruiting table [sic] is denied." A copy of this email is attached as Exhibit L.

26. The Wilkes County Board of Education and Superintendent Laws have continuously and repeatedly denied Ms. Ferrell, N.C. Peace Action, and Mr. Towe meaningful access to Wilkes County high schools to engage in constitutionally protected activity.

27. Plaintiffs are currently being excluded on the basis of their viewpoint even though Superintendent Laws at one time specifically instructed principals that "accurate information which some might interpret as criticism or as discouragement is permissible."

28. In denying and restricting the Plaintiffs' meaningful access to the Wilkes County schools on the basis of their viewpoint, Defendants have acted intentionally, with malice, and in knowing disregard of the Plaintiffs' rights under the United States and North Carolina Constitutions.

**COUNT I**

**(Violation of the First Amendment to the United States Constitution)**

29. Plaintiffs reassert and reallege paragraphs 1-28 as if fully set forth herein.

30. Defendants are currently denying Plaintiffs access to Wilkes County high schools to provide truthful, job-related information on military careers.

31. Under the First Amendment to the United States Constitution, the school district cannot give access to military recruiters to provide information on military careers while denying access to groups that wish to provide truthful information on the same topic.

32. Defendants' consistent refusal to provide N.C. Peace Action, Ms. Ferrell, and Mr. Towe with direct access to students to exercise these rights is based upon unconstitutional and intentional viewpoint discrimination.

33. By reason of Defendants' unconstitutional acts, Plaintiffs have been damaged.

**COUNT II**

**(Violation of the North Carolina Constitution, Article I, Section 14)**

34. Plaintiffs reassert and reallege paragraphs 1-33 as if fully set forth herein.

35. Defendants are currently denying Plaintiffs access to Wilkes County high schools to provide truthful, job-related information on military careers.

36. Under the North Carolina Constitution, Article I, Section 14, the school district cannot give access to military recruiters to provide information on military careers while denying access to groups that wish to provide truthful information on the same topic.

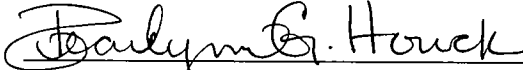
37. Defendants' consistent refusal to provide N.C. Peace Action, Ms. Ferrell, and Mr. Towe with direct access to students to exercise these rights is based upon unconstitutional viewpoint discrimination.

38. By reason of Defendants' unconstitutional acts, Plaintiffs have been damaged.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs seek the following relief:

1. A preliminary and permanent injunction compelling Defendants to give Plaintiffs North Carolina Peace Action, Inc., Ms. Ferrell, and Mr. Towe access to Wilkes County high schools in order to provide information regarding military service and alternatives to military service to Wilkes County high school students;
2. A declaratory judgment that Plaintiffs North Carolina Peace Action, Inc., Ms. Ferrell, and Mr. Towe are entitled to access to Wilkes County high schools on the same basis and to the same extent as military recruiters;
3. A declaratory judgment that Plaintiffs North Carolina Peace Action, Inc., Ms. Ferrell, and Mr. Towe are entitled to present truthful, job-related information about military careers, even when such information could be interpreted as disadvantages of military careers;
4. Nominal damages;
5. An award of attorneys' fees and costs pursuant to 42 U.S.C. §1988; and
6. Any and all other just relief as this Court deems proper.

  
\_\_\_\_\_

Charles E. Johnson  
N.C. Bar No. 9890  
Pearlynn G. Houck  
N.C. Bar No. 36364  
Richard C. Worf  
N.C. Bar No. 37143

ROBINSON BRADSHAW & HINSON, P.A.  
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***Co-Counsel for Plaintiffs North Carolina Peace  
Action, Inc., Sally Ferrell, and Bill Towe and  
Cooperating Attorneys for American Civil  
Liberties Union of North Carolina Legal  
Foundation***

Katherine Lewis Parker  
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Legal Director, American Civil Liberties Union of  
North Carolina Legal Foundation  
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Raleigh, North Carolina 27611  
Telephone: (919) 834-3466  
Facsimile: (919) 828-3265

***Co-Counsel for Plaintiffs North Carolina Peace  
Action, Inc., Sally Ferrell, and Bill Towe***

# Exhibit A

March 15, 2005

To: Dr. Steven Laws, Superintendent

Re: Alternatives to Military Recruitment

Dear Dr. Laws:

As many Wilkes County high school students approach graduation I imagine they are concerned about their futures, especially given the current economic climate. I am writing to you to request an opportunity to visit your school and speak with students about life after high school.

We are a few members of Wilkes Open Forum (WOF). (You presented an excellent program for us last year on "No Child Left Behind"). It has come to our attention (as parents and from talking to students) that military recruiters regularly & aggressively present their agenda to high school students in Wilkes County. Such access is I believe a provision of the "No Child Left Behind" legislation. We are concerned that the recruiters present biased, incomplete information on military enlistment and military life. We would like the opportunity to make information available to your students that will balance & complete the picture provided by the military recruiters. This proposal is an offshoot of the WOF mission to educate the adult community on important issues.

While we understand that military service can be an honorable choice, our goals are to help young people look at career, vocational, and educational funding opportunities outside of military service, (for example Job Corp and Americorp) so that they may make informed decisions about their futures. Our approach is not anti-military, but rather to provide young people with information military recruiters don't offer about the reality of life in the military. To this end, we plan to have some veterans with us to speak from experience.

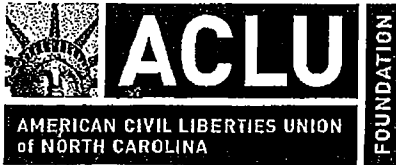
If you are concerned about the legality of allowing alternative information about military service in your schools, let me reassure you that several federal district and appellate courts have repeatedly upheld Equal Access laws that enable students to get alternative information. For example, in 1986 the 9th Circuit Court of Appeals ruled that under the First and Fourteenth Amendments schools creating a forum for proponents of the military must also provide equal access for those with opposing points of view. Military recruiters are aware of these legal precedents, recognizing that such laws protect their access to schools as well as the access of organizations with alternative perspectives.

Ideally we would hope to present our materials (I have enclosed a sample though we are still gathering appropriate handouts) and be available for informal discussions with students at an information table in or near the lunchroom during lunch hour (possibly in the same location the military uses) or as a presentation in the auditorium or classrooms. I will call you within a week to discuss the possibility of school visits in April or May or you may feel free to call me at 921-3602 or email me at [saferrell@wilkes.net](mailto:safferrell@wilkes.net). I am copying this letter to your Associate Superintendent, Kaye Lamb, so she will be up to speed on the proposal. I look forward to speaking with you and/ or Kaye.

Sincerely,

(Ms) Sally Ferrell , 647 Boone Gap Road, Boomer NC 28606

# Exhibit B



P.O. Box 28004 • Raleigh, North Carolina 27611-8004  
(919) 834-3390 (voice & TDD) • Fax (919) 828-3265

September 1, 2005

Dr. Stephen Laws, Superintendent  
Wilkes County Schools  
201 West Main Street  
Wilkesboro, NC 28697

Dear Superintendent Laws,

We have been contacted by Ms. Sally Ferrell, a resident of Wilkes County, concerning her efforts to provide literature to the high schools in Wilkes County on alternatives to military service. By this letter, the American Civil Liberties Union of North Carolina Legal Foundation (ACLU-NCLF) seeks to make inquiries and to provide some guidance to school administrators in the Wilkes County Schools in order to ensure the guarantees of the First Amendment to the United States Constitution are fully protected.

It is our understanding that military recruiters have been granted access to students in Wilkes County high schools. Such access has consisted of military recruitment activities, including the use of tables for recruitment purposes to speak to students and to offer literature, the mingling of military recruiters with students in the school lunchroom, and the presence of ROTC on campus.

Since March 2005, Ms. Ferrell has been seeking to gain access to the high schools in order to offer students literature and information concerning alternatives to military service. It is our understanding that, at a minimum, Ms. Ferrell would like to gain access to each of the four Wilkes County public high schools twice a year to distribute literature and to speak with students.

As part of her efforts to gain access to Wilkes County high schools, it is our understanding that Ms. Ferrell sent these materials to your office with a letter explaining her desire to offer, through the dissemination of literature, a balance to the information presented by military recruiters. She then met with you in person regarding her request for access and her request was denied. Ms. Ferrell has indicated that you then supplied members of the Wilkes County School Board with the information provided by Ms. Ferrell. Finally, Ms. Ferrell was informed by you in writing that she would not be permitted to distribute literature at the high schools. It is our understanding that your office and members of the school board have expressed concerns that students should not be exposed to negative information concerning the military and military service.

We recognize that there are justifiable limits to the access individuals may be given to public schools as the "First Amendment does not guarantee access to property simply because it is owned or controlled by the government." *United States Postal Service v. Council of Greenburgh Civic Assns.*, 453 U.S. 114, 129 (1981). See also *Perry Educ. Ass'n. v. Perry Local Educators' Ass'n.*, 460 U.S. 37, 46, 103 S. Ct. 948, 955, 74 L. Ed. 2d 794, 805 (1983). However, despite these limits, "the government violates the First Amendment when it denies access to a speaker solely to suppress the point of view he espouses on an otherwise includible subject." *Cornelius v. NAACP*, 473 U.S. 788, 806 (1985). Further, as the United States Supreme Court has ruled, "students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved." *Tinker v. Des Moines*, 393 U.S. 503, 511 (1969).

The issue of access to schools has been addressed by various courts. See, e.g., *Clergy and Laity Concerned v. Chicago Bd. of Educ.*, 586 F. Supp. 1408 (N.D. Ill. 1984) (finding school had engaged in unjustified viewpoint discrimination where school policy allowed military recruiters to distribute literature and hold counseling sessions for students, but denied access to group seeking to counsel and distribute information regarding conscientious objection and alternatives to military service); *San Diego Comm. against Registration and the Draft (CARD) v. Grossmont Union High School District*, 790 F.2d 1471 (9<sup>th</sup> Cir. 1986) (remanding case to district court for trial on the merits where school had no compelling justification for allowing military recruiters to advertise in a school newspaper while denying equal access to an anti-draft organization); *Searcey v. Harris*, 888 F.2d 1314, 1324 (11<sup>th</sup> Cir. 1989) (holding that "the government may limit the subject matter discussed by all speakers in a forum but it may not distinguish between particular speakers based on their view of the approved subject matter").

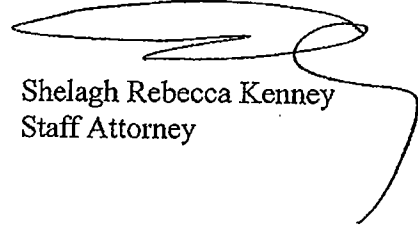
In order to guarantee that Ms. Ferrell has not been denied access in violation of the First Amendment, we seek the following information:

1. any and all policies regarding access given to career recruiters, including military recruiters, at the Wilkes County high schools;
2. any and all policies regarding access to other individuals who wish to present information to students on the premises of Wilkes County high schools;
3. any and all policies of the counseling/guidance office regarding the receipt and display of information about career alternatives;
4. any additional information you believe elucidates Wilkes County Schools' decision to deny Ms. Ferrell access to the high schools.

Please contact me at your earliest convenience at the above address or telephone number if you have any questions. We would greatly appreciate it if you would respond to this letter

within ten (10) business days so that this matter can be resolved expeditiously.

Sincerely,

A handwritten signature in black ink, appearing to read "Shelagh Rebecca Kenney". The signature is stylized with a large, sweeping loop on the right side that extends downwards and then curves back towards the left.

Shelagh Rebecca Kenney  
Staff Attorney

# Exhibit C

## **RECRUITERS**

*Policy Code: 5240*

In compliance with applicable federal law, the Wilkes County Board of Education adopts this policy to provide student access to recruiters for educational and employment opportunities. To assure compliance with the equal access requirements, no recruiter shall be permitted to visit any school campus more frequently than two (2) times during a school semester. For the purposes of this policy, each branch of the military is considered to be a separate recruiting organization.

The primary goal of the Wilkes County Schools is to educate students. Recruiting activities that interfere with traditional school programs shall not be permitted. Any recruiter who harasses students or staff, deliberately provides misleading or false information, or who does not comply with applicable state and federal laws or school regulations shall be prohibited from further recruiting activities on campus.

The Board of Education acknowledges the legal requirement that if military recruiters are permitted to have access to students on campus, equal access must be provided to organizations that wish to present alternatives to military service, such as the Peace Corps and Americorps. This policy of equal access does not include individuals or *ad hoc* collections of individuals. Organizations must have some degree of established form and ongoing public purpose. Principals may require some tangible proof of organizational status, such as evidence of incorporation or other organizational creation, evidence of tax-exempt status, or evidence of an established office.

The superintendent shall develop for implementation not later than August 1 of each school year, beginning with the 2006-2007 school year, written regulations for campus visits by educational and employment recruiters. These regulations shall include:

- A requirement that the regulations regarding recruiting on campus be posted throughout the school year in the school office, the guidance office, and on the school's website.
- A provision for recruiters to receive written permission from the principal or principal's designee to be on campus. Such permission may be granted for the full year.
- A requirement that all recruiters sign in and out of the school office at every visit.
- A requirement that information left by recruiters be dated, and clearly identify a name and a number that students, staff, or others may call if they have questions about the information.
- A designated location where recruiters may leave information for students.
- A process for approved recruiters to schedule specific times to be on campus.
- A requirement that all recruiters clearly identify the organization which they represent.
- A requirement that all military recruiters be in uniform.
- A requirement that recruiting shall not occur in any classroom or during any assembly. For the purposes of this policy, it is not considered to be recruiting if a person is invited to address students in a classroom or during an assembly as part of the instructional curriculum.

**RECRUITERS**

*Policy Code:* **5240**

- A requirement that private appointments not be held on campus or during the school day.

Adopted: July 3, 2006

# Exhibit D

NORTH CAROLINA  
**Peace Action** 

for a SANE World

P.O. Box 10384  
Raleigh, NC 27605

(919) 469-0831  
(919) 462-8074 Fax

billtowepa@juno.com  
www.ncpeaceaction.org

October 13, 2006

VIA CERTIFIED MAIL

Principal Steve Moree  
Wilkes Central High School  
1179 Moravian Falls  
Wilkesboro, North Carolina 28697

Dr. Stephen Laws, Superintendent  
Wilkes County School District  
613 Cherry Street  
North Wilkesboro, North Carolina 28659

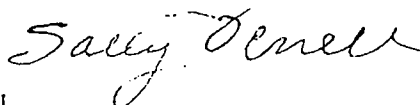
Re: Request for Access to Students as an Authorized Recruiter Under Wilkes  
County School Board Policy on Recruiters

Dear Principal Moree and Superintendent Laws:

Pursuant to the Wilkes County School District Policy on Recruiters (please see attached), I hereby request access to Wilkes Central High School in order to provide students with information regarding alternatives to military service. Pursuant to federal law and the School District's policy, I request that I be granted access that is equal to that given to military recruiters. I am making this request as a representative of North Carolina Peace Action ("NC Peace Action"). In compliance with the School District's policy, I have attached information regarding NC Peace Action's registration with the North Carolina Secretary of State. If you have any questions about NC Peace Action, or my affiliation with that group, please feel free to call Bill Towe, Coordinator for NC Peace Action, at (919) 469-0831.

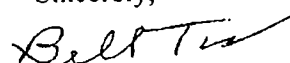
Please contact me within ten (10) days of receipt of this letter to let me know whether my request has been granted.

Sincerely,



Sally Ferrell  
Local Representative for  
North Carolina Peace Action

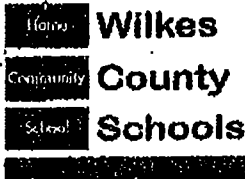
Sincerely,



Bill Towe  
Coordinator  
North Carolina Peace Action



# Exhibit E



Superintendent  
Stephen Laws, Ed.D.

Associate Superintendent  
Kaye Lamb, Ed.S.

Assistant Superintendent  
Wanda Hutchinson, Ed.S.

October 23, 2006

Mr Sully Ferrell, Local Representative  
North Carolina Peace Action  
P.O. Box 10384  
Raleigh, NC 27605

Mr. Dil Towe, Coordinator  
North Carolina Peace Action  
P.O. Box 10384  
Raleigh, NC 27605

RE: WILKES COUNTY SCHOOLS

Dear Ms. Ferrell and Mr. Towe:

I am writing in reply to your letter dated October 13, 2006 in which you request access to the Wilkes County Career Education Center, East Wilkes High School, North Wilkes High School, West Wilkes High School, and Wilkes Central High School for recruitment of students. Wilkes County Board of Education Policy 5240, a copy of which is enclosed, provides access to students for recruitment for post-secondary employment or educational opportunities. I understand from your letters that your request is for the purpose of providing information regarding alternatives to military service rather than offering other employment or educational opportunities.

I believe, therefore, that Wilkes County Board of Education Policy 5210, a copy of which is also enclosed, applies to your request. Under this policy information from your organization will be made available for students at each of the school facilities identified in your request. You should contact the principal of each high school and the director of the Career Center to arrange for distribution of your information pursuant to this policy. If Peace Action (or any other organization) does in fact desire to recruit students for employment with that organization or if Peace Action provides post-secondary educational opportunities, policy 5240 would be applicable.

Please do not hesitate to contact me if you have any questions regarding this matter. Thank you for your interest in Wilkes County Schools.

Yours truly,  
  
Stephen C. Laws  
Superintendent

SCL:dep  
Enclosures

613 Cherry Street ■ North Wilkesboro, NC 28659 ■ Telephone: 336.667.1121  
[www.wilkes.k12.nc.us](http://www.wilkes.k12.nc.us)

# Exhibit F



P.O. Box 28004 • Raleigh, North Carolina 27611-8004

(919) 834-3390 (voice & TDD) • Fax (919) 828-3265

December 7, 2006

VIA CERTIFIED MAIL

Dr. Stephen Laws, Superintendent  
Wilkes County School District  
613 Cherry Street  
North Wilkesboro, North Carolina 28659

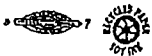
Re: Request for Access to Students to Distribute Non-School Materials

Dear Superintendent Laws:

On October 13, 2006, Ms. Sally Ferrell and Mr. Bill Towe, of North Carolina Peace Action, requested access to all Wilkes County high schools in order to provide students with information regarding alternatives to military service. Ms. Ferrell and Mr. Towe made this request pursuant to the Wilkes County School District Policy on Recruiters, Policy 5240. In compliance with Policy 5240, Ms. Ferrell and Mr. Towe attached information regarding NC Peace Action's registration with the North Carolina Secretary of State.

On October 23, 2006, you responded to Ms. Ferrell's and Mr. Towe's request for access. In your response, you suggest that their request is improper under Policy 5240 because North Carolina Peace Action is only providing information regarding alternatives to military service, rather than offering direct employment and/or educational opportunities. Please note that your conclusion is not borne out by the case law. As I have discussed with Fred Johnson, your school board attorney, courts have held that peace activists who are providing information on alternatives to military service, cannot be denied access under a recruitment policy simply because the organization does not itself provide jobs. See Searcey v. Crim, 815 F.2d 1389, 1394 (11th Cir. 1987) (holding that it is unreasonable to require that a "Career Day" presenter have "jobs in hand," and thus be able to offer immediate employment). Consequently, since Ms. Ferrell and Mr. Towe have complied with the requirements set forth in Policy 5240, they are entitled to access that is equal to that given to military recruiters, under the federal Equal Access Act.

Additionally, as you note in your letter, it appears that Ms. Ferrell and Mr. Towe should also have direct access to students under Policy 5210, regarding the distribution of non-school sponsored publications. Under Policy 5210, direct distribution is defined as "the actual delivery of non-school sponsored publications to students." The policy provides that direct distribution shall apply to, *inter alia*, "any other non-profit, secular organization which provides educational, civic, cultural, or recreational programs for youth." North Carolina Peace Action is a non-profit, secular organization that provides educational and civic programs for youth, such as its Student Peace Action Network program. As such, representatives of North Carolina Peace Action should



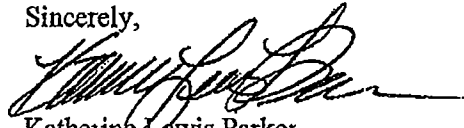
be able to obtain direct access to Wilkes County high school students under Policy 5210, as well as under Policy 5240.

Ms. Ferrell has been granted access to at least one high school in Wilkes County. However, the remaining high school principals have indicated that they are awaiting written authorization from you regarding whether she may have direct access to their students. Accordingly, we ask that you provide all of the Wilkes County high school principals with written authorization to permit Ms. Ferrell to enter the schools to directly distribute materials to students regarding alternatives to the military. We ask that you notify the principals that Ms. Ferrell's access should be permitted on the same basis as access provided to military recruiters. Please provide us with copies of your correspondence with all Wilkes County high school principals on or before Monday, December 18, 2006

As you are aware, we have been assisting Ms. Ferrell for over a year now in her attempt to gain her constitutional right of access to Wilkes County high schools in order to provide students with information regarding alternatives to military service. If we do not receive copies of the above-referenced correspondence with your principals by Monday, December 18<sup>th</sup>, we will assume that you prefer to resolve this matter through litigation.

Thank you in advance for your attention to this matter. If you have any questions, please contact me at the above address or by telephone at (919) 834-3466.

Sincerely,



Katherine Lewis Parker  
Legal Program Coordinator<sup>1</sup>

cc: Fredrick G. Johnson, Esq., Wilkes County School Board Attorney

---

<sup>1</sup>Bar Disclosure: I am a member in good standing of both the Florida and Georgia Bars and have applied to take the North Carolina Bar exam in February 2007. Under the North Carolina Rules of Professional Conduct, I am permitted to provide services in cases that are limited to the application of federal law. N.C. Rules of Professional Conduct Rule 5.5(c)(2)(E). Please contact me if you have any questions.

# Exhibit G

## MEMORANDUM

**TO:** High School Principals

**FROM:** Dr. Stephen C. Laws, Superintendent

**DATE:** April 4, 2007

**SUBJECT:** **AMENDMENT TO ADMINISTRATIVE REGULATIONS  
FOR POLICY 5240 (RECRUITERS)**

The Administrative Regulations for Policy 5240 will be amended to include provisions (1) requiring educational and/or employment recruiters be represented at on-campus visits by persons who have direct knowledge of the educational or career opportunities which they present and (2) prohibiting any educational and/or employment recruiter from engaging in any course of conduct which discourages students from entering a specific educational program, educational institution, career, or job opportunity by denigrating the educational program, educational institution, career, or job opportunity because of its nature or purpose. Accurate information which some might interpret as criticism or as discouragement is permissible; however, exhortative and denigrative presentations for the purpose of denouncing certain educational programs, institutions, careers, or job opportunities because of the purpose which they serve may properly be banned.

Policy 5250 mandates equal access for organizations that wish to present alternatives to military service. This right of access is to be extended to North Carolina Peace Action or other similar organizations which present positive, factual information about vital career options that are wholesome and oriented toward serving society, both at home and abroad, such as Americorps, the Peace Corps, and opportunities in forests, parks, education, health care, *etc.* These organizations also have an equal right of access for the distribution of information pursuant to Policy 5210, *Distribution of Non-School Material*.

The terms of this Memorandum are effective immediately. Please do not hesitate to contact me if you have any questions regarding this matter.

# Exhibit H

**FAW, FOLGER & JOHNSON, P.C.**  
**Attorneys and Counsellors at Law**  
**P.O. Drawer 512**  
**Mount Airy, NC 27030-0512**

Telephone: (336) 786-2401  
Facsimile: (336) 786-2620  
Email: fawfolger1@embarqmail.com

Street Address:  
541 North Main Street, Lower Level  
Mount Airy, NC 27030

February 12, 2008

**SENT VIA FACSIMILE**  
**(866-511-1344)**

Katherine L. Parker, Esq., Legal Director  
ACLU of North Carolina  
P.O. Box 28004  
Raleigh NC 27611-8004

**RE: NORTH CAROLINA PEACE INITIATIVE/WILKES COUNTY SCHOOLS**

Dear Ms. Parker:

It was indeed a pleasure to meet with you and Mrs. Ferrell in North Wilkesboro on December 19, 2007. I believe it was very beneficial to discuss openly our respective concerns regarding recruitment for post-secondary employment and for distribution of brochures and other printed materials in the public schools. At your request I am writing to summarize the position of the Board of Education in regard to the recruitment activities of the North Carolina Peace Initiative or any other organization. As I have indicated to you verbally and by email, I sincerely apologize for the delay in sending this letter to you. Nevertheless, I am hopeful that we can resolve amicably any disagreement between our respective clients regarding the recruitment and distribution process.

In essence, the position of the Board of Education regarding the recruitment efforts of the North Carolina Peace Initiative is as follows:

1. The North Carolina Peace Initiative will have the same recruitment privilege as any other organization that desires to recruit students for post-secondary employment or educational opportunities. At a scheduled on-campus recruiting session, students are to receive information about employment and/or educational opportunities from persons who have direct knowledge of those opportunities. Recruiters may not discourage students from entering, or otherwise denigrate, a specific educational program, educational institution, career, or job opportunity. We therefore object to the distribution of the following materials at an on-campus recruiting session: *Sgt. Abe the Honest Recruiter Explains the Enlistment/Reenlistment Document, Do You*

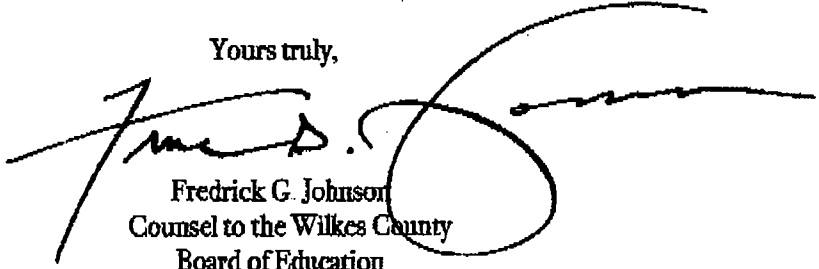
*Know Enough to Enlist?, Ten Points to Consider Before You Sign a Military Enlistment Agreement, Joining the Military is Hazardous to Your Education.*

2. The North Carolina Peace Initiative also enjoys the opportunities for distribution of its materials through Policy 5210, *Distribution of Non-School Sponsored Publications*. An item not approved for distribution to students during an on-campus recruiting session may well be approved for distribution under Policy 5210.

We believe this position provides an opportunity for the North Carolina Peace Initiative or any other organization to present its information to students within the limited forum permitted by the Board of Education. Enclosed for your reference are a copy of Policy 5240, *Recruiters* and a copy of Policy 5210, *Distribution of Non-School Sponsored Publications*.

Thank you for your continued cooperation and assistance.

Yours truly,

A handwritten signature in black ink, appearing to read "Fredrick G. Johnson", is written over a large, stylized circular flourish.

Fredrick G. Johnson  
Counsel to the Wilkes County  
Board of Education

FGJ: dbp  
Enclosures

# Exhibit I

**From:** Sally Schuder Ferrell [mailto:saferrell@wilkes.net]  
**Sent:** Tuesday, August 26, 2008 10:51 PM  
**To:** 'morees@wilkes.k12.nc.us'  
**Subject:** Peace Table

**Dear Principal Moree:**

**I am a local representative for North Carolina Peace Action. I am writing, pursuant to the Wilkes County School District Policy on Recruiters (Policy 5240), to request access to Central High, in order to provide students with information regarding public service careers in fields other than the military as well as truthful, job-related information on military careers.**

**Along with other members of North Carolina Peace Action, I would like to set up a table, speak with students, and distribute written materials during lunch one day during the month of September. Please reply by September 3, 2008 with 4 potential dates (not Fridays) that would be satisfactory to you, so that I may plan my schedule. You may reach me at saferrell@wilkes.net or 921-3602.**

**Sincerely,  
Sally Ferrell  
Local Representative for N.C. Peace Action**

# Exhibit J

**From:** Stephen Laws [mailto:slaws@wilkes.k12.nc.us]

**Sent:** Friday, September 05, 2008 8:57 AM

**To:** saferrell@wilkes.net

**Cc:** Fred Johnson; Stephen Moree; Eric Barker; Hal Gatewood; John Parsons; Joseph Ortiz; Rick Lankford; Coleen Bush; Frances Tharpe; Karen Reeves; Peggy Martin

**Subject:** school visits

Hello Ms. Ferrell:

Our high school principals have received your request to access students. We are excited that you will have an AmeriCorp or Peace Corp representative with you to discuss career possibilities with interested students. The literature promoting these career options is certainly appropriate and informative for our students in a recruiting setting.

I have also been told that you have included information regarding Sgt. Abe, Ten Questions to ask recruiters, and Do you know enough to enlist? I will assume that this information is for the designated student information area in each school and not for dispersal at the recruiting table. Our policy regarding negative recruiting at schools has not changed.

I hope and trust that this year can be one where we work together to provide positive career opportunity information for our students. Thank you for your interest in our students.

Stephen C. Laws  
Superintendent

# Exhibit K

**From:** Sally Schuder Ferrell [mailto:safferrell@wilkes.net]  
**Sent:** Friday, September 12, 2008 4:27 PM  
**To:** 'slaws@wilkes.k12.nc.us'  
**Cc:** 'Sally Schuder Ferrell'  
**Subject:** Re:school visits

**Dear Superintendent Laws:**

I share your hope that we may work together this fall in informing Wilkes County students about their post-graduation career opportunities. In response to your question, I will be bringing the "Ten Questions to Ask Recruiters" and "Do You Know Enough to Enlist?" pamphlets when I visit the schools and will distribute copies to interested students. My attorneys advise me that I have a constitutional right to present truthful, job-related information about military careers, and I plan to exercise that right.

I also believe I have a constitutional right to hand out the "Sgt. Abe" pamphlet. It too contains only truthful, job-related information about military careers. However, out of respect for your reaction to that pamphlet and in the hope that we may reach an agreeable compromise on this issue, I will only submit the "Sgt. Abe" pamphlet for passive distribution and will not distribute it at the recruiting table.

In addition to presenting these two pamphlets, and the oral and written information on Peace Corps, Americorps, and other peaceful service careers, I will be orally presenting truthful, job-related information about military careers to interested students. This information may include the following facts:

- An enlisted person cannot break the commitment to the military, which lasts at least eight years
- The military can change job conditions at any time without notice, including duties, pay, and benefits
- The military can extend the enlistment without the enlisted person's consent
- Recruiters must sign up a specific number of people to keep their jobs and advance their careers
- Reserve duty can be changed to active
- The New GI Bill does not provide \$70,000 for college for most people
- Combat can have certain mental health effects, such as post-traumatic stress disorder

I will not restrict myself to these facts, but they are examples of the kind of job-related information that I will be relaying to interested students. During some of my visits to the schools, a veteran may accompany me, and he or she will also relay facts of this nature to the students.

Please let me know if this plan is acceptable to you. If I do not receive specific objections from you, I will assume that I may proceed in the manner I have outlined here. I plan to begin scheduling my school visits with the high school principals immediately.

Sincerely,  
Sally Ferrell  
Representative, N.C. Peace Action

**From: Stephen Laws [mailto:slaws@wilkes.k12.nc.us]**

**Sent: Friday, September 05, 2008 8:57 AM**

**To: saferrell@wilkes.net**

**Cc: Fred Johnson; Stephen Moree; Eric Barker; Hal Gatewood; John Parsons; Joseph Ortiz; Rick Lankford; Coleen Bush; Frances Tharpe; Karen Reeves; Peggy Martin**

**Subject: school visits**

**Hello Ms. Ferrell:**

**Our high school principals have received your request to access students. We are excited that you will have an AmeriCorp or Peace Corp representative with you to discuss career possibilities with interested students. The literature promoting these career options is certainly appropriate and informative for our students in a recruiting setting.**

**I have also been told that you have included information regarding Sgt. Abe, Ten Questions to ask recruiters, and Do you know enough to enlist? I will assume that this information is for the designated student information area in each school and not for dispersal at the recruiting table. Our policy regarding negative recruiting at schools has not changed.**

**I hope and trust that this year can be one where we work together to provide positive career opportunity information for our students. Thank you for your interest in our students.**

**Stephen C. Laws  
Superintendent**

# Exhibit L

**From:** Stephen Laws [mailto:slaws@wilkes.k12.nc.us]

**Sent:** Sunday, September 14, 2008 3:51 PM

**To:** Sally Schuder Ferrell

**Cc:** Fred Johnson; Stephen Moree; Eric Barker; Hal Gatewood; John Parsons; Joseph Ortiz; Rick Lankford; Coleen Bush; Frances Tharpe; Karen Reeves; Peggy Martin

**Subject:** RE: school visits

Dear Ms. Ferrell:

We have been discussing this issue for some time now and I remind you that the Board's position has not changed. The purpose of student access recruiting tables is to present viable post-secondary options for our students. It seems that your purpose, from previous correspondence and discussion, including this one, is to negatively portray military service. We do not allow this negative recruiting for any other post-secondary option, nor will we permit it in this instance.

Wilkes County Schools proposes to treat you as we would any recruiter. If you wish to present information regarding career options in the Peace Corp, Americorps or another entity whom you can adequately represent with career opportunities, access will be given at a recruiting table. We will not allow negative or counter recruiting to occur at our student access recruiting tables. Until such time as you can present to me in writing your willingness and commitment to abide by Wilkes County Board of Education policy, your access to students at a recruiting table is denied.

Wilkes County Schools has made great strides in student achievement and student preparation for post-secondary opportunities. I ask you one last time to join us in presenting positive career and educational opportunities for our students.

Sincerely,

Stephen C. Laws  
Superintendent

-----Original Message-----

**From:** Sally Schuder Ferrell [mailto:safferrell@wilkes.net]

**Sent:** Friday, September 12, 2008 4:27 PM

**To:** Stephen Laws

**Cc:** 'Sally Schuder Ferrell'

**Subject:** Re:school visits

Dear Superintendent Laws:

I share your hope that we may work together this fall in informing Wilkes County students about their post-graduation career opportunities. In response to your question, I will be bringing the "Ten Questions to Ask Recruiters" and "Do You Know Enough to Enlist?" pamphlets when I visit the schools and will distribute copies to interested students. My attorneys advise me that I have a constitutional right to present truthful, job-related information about military careers, and I plan to exercise that right.

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Sincerely,  
Sally Ferrell  
Representative, N.C. Peace Action

From: **Stephen Laws** [mailto:slaws@wilkes.k12.nc.us]

Sent: **Friday, September 05, 2008 8:57 AM**

To: **saferrell@wilkes.net**

Cc: **Fred Johnson; Stephen Moree; Eric Barker; Hal Gatewood; John Parsons; Joseph Ortiz; Rick Lankford; Coleen Bush; Frances Tharpe; Karen Reeves; Peggy Martin**

Subject: **school visits**

Hello Ms. Ferrell:

Our high school principals have received your request to access students. We are excited that you will have an AmeriCorp or Peace Corp representative with you to discuss career possibilities with interested students. The literature promoting these career options is certainly appropriate and informative for our students in a recruiting setting.

I have also been told that you have included information regarding Sgt. Abe, Ten Questions to ask recruiters, and Do you know enough to enlist? I will assume that this information is for the designated student information area in each school and not for dispersal at the recruiting table.

Our policy regarding negative recruiting at schools has not changed.

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Stephen C. Laws

**Superintendent**