

## **Policy may threaten aid - Law School must be wary of military recruiting law**

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*Editor's note: Part one of a two-part series on military recruiting at law schools. Today: Recruiting at Stanford. Monday: National reform efforts.*

When it comes to military recruiting at the Law School, Stanford is stuck between a rock and a hard place.

If the Law School permits military recruiting, it could violate its nondiscrimination policy. But if the school bars the military from recruiting on its facilities, Stanford could lose up to \$1 million in federal funding.

The conflict boils down to two statutes - one a school policy, the other a federal law.

According to its nondiscrimination policy, the Law School "makes its facilities and services open only to employers who do not discriminate on the basis of . . . sexual orientation."

A federal law, popularly called the Solomon Amendment, prohibits certain federal funds from being "used to provide contracts or grants to any institution of higher education that . . . prevents military recruitment on campus."

In other words, the Law School bans recruiters who discriminate by sexual orientation, while Congress mandates that, to receive federal funding, schools must allow the military, which will not hire openly gay individuals, to recruit on campus.

### *Avoiding the conflict*

Thus far the Law School has escaped directly confronting the issue thanks to a new recruiting policy implemented last spring. The policy does not keep the military away because

of concern over its practices, but instead due to lack of student interest in working for the Judge Advocate General Corps, the legal arm existing in a number of armed forces branches.

"We have a policy where new recruiters want to conduct interviews, they post their information on our Web site, and, unless five students sign up, we tell the employer too bad," Law School Dean Paul Brest said.

According to Brest, when a military recruiter posted a listing this fall, only one student signed up, and the recruiter was thus not extended an invitation to campus. The school's career development center has not heard from JAG since its request was denied.

Until five or more students express interest, the Law School need make no decision on whether it will permit on-site interviews, Brest said.

"We have never had an occasion to determine whether they violate the [nondiscrimination] rules," Brest said.

According to law student Alan Drexel, former head of Outlaw, Stanford Law Students for Lesbian, Gay and Bisexual Equality, "were a determination to be made, the military would clearly be in flagrant violation of the" nondiscrimination policy.

Many students are pleased that the Law School's policies have resulted in no interviewing on campus.

"The [Office of Career Services] policy was a good solution, because it showed that there just isn't student interest," said Toni Broaddus, a law student and member of Outlaw.

Broaddus admits, however, that she had hoped for a stronger statement from the school.

"In some ways I was disappointed that we didn't take a stronger stance, although my main concern is keeping [the recruiters] off campus and keeping our nondiscrimination policy from changing, which has been successful," she said.

*University policy*

Although the Law School does not allow discriminatory employers to recruit on its facilities, the University as a whole has no such policy.

"We will allow any bona fide employer to recruit on campus," said Bob Thirsk, head of the Career Development Center.

According to Brest, Law School students can and do have discussions with military recruiters through other campus outlets like the CDC.

"Our policy doesn't cover all student contact with these groups, just [Law] School sponsored contact," Brest said.

The military could therefore arrange interviews at the CDC, a University-wide center, instead of at the Law School Office of Career Services, to get around the Law School's nondiscrimination strictures.

Such a scenario occurred in the fall of 1997, when JAG set up several interviews at the CDC. When few students signed up for the interviews, JAG canceled its trip, and the CDC has since received no interview requests from them, according to Thirsk.

Outlaw planned a variety of protests after learning of JAG's planned on-campus interviews and would do so again should the corps make any future plans to interview on campus, according to Broaddus.

"We didn't find out until the week before they were coming, but we had several things planned, including filling the interview slots with gay or pro-gay students," she said.

Thirsk said that military recruiters do occasionally show up at campus career fairs and other recruiting venues.

"I'm perfectly willing to accommodate the military," he said, adding that his stance does not mean that he condones the military's practices toward gays.

*Future plans*

The military has thus far accepted restrictions on recruiting when they are general restrictions based on lack of student interest, like Stanford's.

That does not mean, however, that Stanford has permanently evaded the issue. Thirsk noted that the military is not known for backing down.

"In working with the military, I've found that if they really wanted to push the issue, they would find a way to come," he said.

In case the military does press the issue at some point in the future, the Law School is working on a contingency plan.

"Dean Brest convened a fundraising task force . . . to look at ways of doing targeted fundraising to replace funds that might be lost in the future due to enforcement of the Solomon Amendment," Drexel said.

Brest steps down in September, however, and will be replaced by Law Prof. Kathleen Sullivan. Sullivan could not be reached for comment on the issue, but Drexel called her "a strong ally of the lesbian / gay / bisexual community."

Sullivan co-wrote a friend-of-the-court brief opposing Colorado's anti-gay rights amendment in the 1996 Supreme Court case *Roemer v. Evans*.