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## **505 DISTRIBUTION AND DISPLAY OF NON-SCHOOL-SPONSORED MATERIALS ON SCHOOL PREMISES BY STUDENTS AND EMPLOYEES**

### **I. PURPOSE**

The purpose of this policy is to ~~protect the exercise of students' and employees' free speech rights, taking into consideration the educational objectives and responsibilities of the school district, outline standards for the distribution or display of non-school-sponsored materials on school district property by students and employees. This policy also outlines standards for displays in classrooms and other areas on school district property. Materials distributed, posted, or displayed on school property are subject to the requirements and limitations established in this policy.~~

### **II. GENERAL STATEMENT OF POLICY**

- A. The school district ~~recognizes that students and employees have the right to express themselves on school property. This protection includes the right to distribute, at a reasonable time and place in a reasonable manner, nonschool sponsored material. regulates the use of school property to ensure that materials distributed, posted, or displayed on school property are consistent with the school district's educational mission, do not disrupt the school district's operations, and do not interfere with educational activities or the rights of others.~~
- B. ~~To protect First Amendment rights, while at the same time preserving the integrity of the educational objectives and responsibilities of the school district, the school board adopts the following regulations and procedures regarding distribution of nonschool sponsored material on school property and at school activities: While the school district recognizes that staff and students have constitutional rights related to speech and expression, school district property is not a public forum for speech and expression. Accordingly, the school district may establish reasonable and viewpoint neutral regulations governing the distribution or display of non-school materials on school property.~~

### **III. DEFINITIONS**

- A. "Distribute" or "Distribution" means circulation or dissemination of material by means of handing out free copies, selling or offering copies for sale, accepting donations for copies, ~~posting or displaying material,~~ or placing material in internal staff or student mailboxes.
- B. ~~"Display" means posting or displaying material on District-owned property, including walls of classrooms, hallways, or other common areas, interior or exterior windows, doors, bulletin boards, the exterior of lockers provided by the school district. A "display" for purposes of this policy does not include a student's clothing, backpack, or other personal effects.~~
- C. ~~"Government speech" means speech or expression that is communicated by, on behalf of, or reasonably perceived as being endorsed by the school district. Materials displayed in classrooms, including on classroom walls and doors, and in common areas of school district property may constitute government speech and are subject to district oversight and control.~~

**B D.** "Non-school-sponsored material" or "unofficial material" includes all materials or objects intended for distribution, except school newspapers, employee newsletters, literary magazines, yearbooks and other publications, flyers, or handouts funded and/or sponsored or authorized by the school. Examples of non-school-sponsored materials include but are not limited to leaflets, brochures, buttons, badges, flyers, petitions, posters, and underground newspapers whether written by students or employees or others, and tangible objects.

**E E.** "Obscene to minors" means:

1. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest of minors of the age to whom distribution is requested;
2. The material depicts or describes, in a manner that is patently offensive to prevailing standards in the adult community concerning how such conduct should be presented to minors of the age to whom distribution is requested, sexual conduct such as intimate sexual acts (normal or perverted), masturbation, excretory functions, or lewd exhibition of the genitals; and
3. The material, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

**D E.** "Minor" means any person under the age of eighteen (18).

**E G.** "Material and substantial disruption" of a normal school activity means:

1. Where the normal school activity is an educational program of the district for which student attendance is compulsory, "material and substantial disruption" is defined as any disruption which interferes with or impedes the implementation of that program.
2. Where the normal school activity is voluntary in nature (including school athletic events, school plays and concerts, and lunch periods) "material and substantial disruption" is defined as student rioting, unlawful seizures of property, conduct inappropriate to the event, participation in a school boycott, demonstration, sit-in, stand-in, walk-out, or other related forms of activity.

In order for expression to be considered disruptive, specific facts must exist upon which the likelihood of disruption can be forecast, including past experience in the school, current events influencing student activities and behavior, and instances of actual or threatened disruption relating to the written material in question.

**F H.** "School activities" means any activity sponsored by the school including, but not limited to, classroom work, library activities, physical education classes, official assemblies and other similar gatherings, school athletic contests, band concerts, school plays and theatrical productions and in-school lunch periods.

**I.** "School district property" means any building, facility, grounds, vehicle, or other property owned, leased, or controlled by the school district.

**G J.** "Libelous" is a false and unprivileged statement about a specific individual that tends to harm the individual's reputation or to lower that individual in the esteem of the community.

#### **IV. PROHIBITED MATERIALS**

Distribution or display of materials is prohibited when the material:

- A. Is obscene, vulgar, or age-inappropriate for the youngest students reasonably expected to view it;
- B. Is libelous, slanderous, defamatory, or contains false statements about identifiable individuals;
- C. Advocates violence, illegal conduct, or the use of illegal substances;
- D. Advertises or promotes products or services prohibited to minors by law;
- E. Contains threats, fighting words, harassment, or discriminatory statements directed at individuals or groups;
- F. Promotes or opposes a political candidate, political party, ballot question, or other partisan political activity;
- G. Promotes a personal, religious, or ideological viewpoint unrelated to the board-approved curriculum, official school programs or activities, or a legitimate instructional purpose;
- H. Is reasonably forecasted to cause a material and substantial disruption to the educational environment, school operations, or school activities; or
- I. Violates federal or state law or school district policy.

For purposes of these standards, "age-appropriate" means content that a reasonable educator would determine is suitable for the intended student audience based on students' age, grade level, maturity, and developmental readiness, taking into account the material's purpose, context, and overall presentation.

## **V. CLASSROOM MATERIALS AND DISPLAYS**

- A. Instructional Displays: Materials displayed in classrooms and other instructional areas must enhance the learning environment by being germane to a lesson or subject being taught, serve a legitimate instructional purpose, or be related to approved school curriculum, programs, activities, clubs, and sports.
- B. Non-Instructional Displays: Materials displayed in the classroom that do not enhance the learning environment by being germane to a subject or lesson being taught or do not serve an instructional purpose must be approved by administration as set forth below.

Seasonal or cultural decorations that are secular in nature or displayed as part of board-approved curriculum, school-sponsored activities, or longstanding school district traditions are permitted, provided the display is not used to promote, endorse, or oppose a particular religious, political, or ideological viewpoint.

- C. Viewpoint Neutrality: Consistent with the district's mission to provide a safe, welcoming, and student-centered learning environment, school district spaces shall remain focused on instruction, learning, and the educational mission of the district. Employees shall maintain viewpoint neutrality while acting pursuant to their official duties within the scope of their employment and shall not use school district property to advocate for their personal views on political, religious, or other ideological issues.

The district expects all school district spaces to provide a safe, respectful, and welcoming learning environment for all students. Employees shall not display materials that a reasonable person would see as making school district spaces seem primarily dedicated or solely identified with one particular group of students, identity, viewpoint,

or interest, unless those materials are part of an approved curriculum or an officially approved district program or activities.

- D. Flags: Except for the United States flag, the official Minnesota state flag, federally or state-recognized Tribal flags, military service flags, flags displayed as part of board-approved curriculum or school-sponsored activities, and flags expressly authorized by the superintendent or school board, flags displayed in classrooms or elsewhere on school district property shall be limited to official governmental, educational, or school-identifying purposes.

Employees shall not display flags for the purpose of promoting, endorsing, or opposing personal, political, religious, or ideological viewpoints while acting within the scope of their employment.

- E. Inclusivity: General messages promoting respect, kindness, dignity, belonging, safety, and equal treatment for all students are permissible, provided they are not presented in a manner, such as with imagery or symbolism, that is reasonably understood as promoting or endorsing a particular political, religious, or ideological viewpoint, organization, movement, or special-interest group.

## **VI. BUILDING AND DISTRICT-WIDE DISPLAYS**

- A. Governmental Speech: Materials displayed in non-instructional areas, including common areas of school buildings, may reasonably be perceived as carrying the endorsement of the school district and are subject to school district control. The school district retains sole discretion over what constitutes government speech and may determine the content of displays on school property, provided such determinations are consistent with applicable law and board policy.
- B. Approval: All non-district sponsored materials proposed for posting or display in a school building must receive prior approval from the building principal. All non-district sponsored materials proposed for posting or displaying in all other district properties must receive prior approval from the [INSERT POSITION]. A principal or the [INSERT POSITION] may designate another person to provide approval of a display, provided the designee is trained on the standards set forth in this policy.
- C. Inclusivity: General messages promoting respect, kindness, dignity, belonging, safety, and equal treatment for all students are permissible, provided they are not presented in a manner, such as with imagery or symbolism, that is reasonably understood as promoting or endorsing a particular political, religious, or ideological viewpoint, organization, movement, or special-interest group.

## **IV VII. GUIDELINES**

- A. Time, Place, and Manner: Students and employees of the school district ~~have the right to~~ may distribute or display non-school-sponsored materials after receiving the appropriate approval and subject to, ~~at~~ reasonable times, and places, and manner restrictions established as set forth in this policy, ~~and in a reasonable manner,~~ non-school-sponsored material. Distribution of materials may not:
1. Occur during instructional time if it disrupts educational activities;
  2. Block or impede pedestrian or vehicle traffic;
  3. Interfere with entrances, exits, hallways, or other school operations;
  4. Require unreasonable use of district personnel, equipment, or resources; or
  5. Coerce any student or employee to accept materials.

B. School District emails should not be listed on the distribution materials.

~~B C.~~ Requests for distribution of non-school-sponsored material will be reviewed by the administration on a case-by-case basis. However, distribution or display of the materials listed in ~~below Section IV above~~ is prohibited. ~~Material is prohibited that:~~

- ~~1. is obscene to minors;~~
- ~~2. is libelous or slanderous;~~
- ~~3. is pervasively indecent or vulgar or contains any indecent or vulgar language or representations, with a determination made as to the appropriateness of the material for the age level of students to which it is intended;~~
- ~~4. advertises or promotes any product or service not permitted to minors by law;~~
- ~~5. advocates violence or other illegal conduct;~~
- ~~6. constitutes insulting or fighting words, the very expression of which injures or harasses other people (e.g., threats of violence, defamation of character or of a person's race, gender, religious, or ethnic origin);~~
- ~~7. presents a clear and present likelihood that, either because of its content or the manner of distribution, it will cause a material and substantial disruption of the proper and orderly operation and discipline of the school or school activities, will cause the commission of unlawful acts or the violation of lawful school regulations;~~

~~C D.~~ Administrative Considerations: In reviewing requests for distribution or display of materials, the administration shall evaluate requests based on the educational interests of the district and Distribution by students and employees of non school sponsored materials on school district property are subject to reasonable time, place and manner restrictions set forth below. In making decisions regarding time, place and manner of distribution, the administration will may consider, among other relevant factors including, but not limited to, the following:

- ~~1. whether the material is educationally related~~ Educational relevance and connection to the district's educational mission;
- ~~2. The extent to which the distribution is likely to cause disruption of or interference with the school district's educational objectives, discipline, or school activities;~~
- ~~3. Whether the materials can be distributed from the office or other isolated location so as to minimize disruption of traffic flow in the hallways;~~
- ~~3. whether the materials can be distributed from the office or other isolated location so as to minimize disruption of traffic flow in the hallways;~~
- ~~4 4.~~ ~~The quantity or size of the materials to be distributed;~~
- ~~5 5.~~ ~~Whether distribution would require assignment of school district staff, use of school district equipment, or other resources;~~
- ~~6 6.~~ ~~Whether distribution would require that non-school persons be present on the school grounds;~~
- ~~7 7.~~ ~~Whether the materials are a solicitation for goods or services not requested~~

by the recipients.

**~~V.~~ TIME, PLACE, AND MANNER OF DISTRIBUTION**

- ~~A.~~ ~~No non-school-sponsored material shall be distributed during and at the place of a normal school activity if it is reasonably likely to cause a material and substantial disruption of that activity.~~
- ~~B.~~ ~~Distribution of non-school-sponsored material is prohibited when it blocks the safe flow of traffic within corridors and entrance ways of the school, and school parking lots. Distribution shall not impede entrance to or exit from school premises in any way.~~
- ~~C.~~ ~~No one shall coerce a student or staff member to accept any publication.~~
- ~~D.~~ ~~The time, place and manner of distribution will be solely within the discretion of the administration, consistent with the provisions of this policy.~~

**~~VI~~ VIII. APPROVAL PROCEDURES**

- A. Submission: Any student or employee wishing to distribute or display (as defined in this policy) non-~~school-sponsored~~ material must first submit for approval a copy of the material to the principal or to [INSERT POSITION] in the case of non-school buildings at least 24 hours in advance of desired distribution time, together with the following information:
  - 1. Name and phone number of the person submitting the request and, if a student, the room number of his or her first-period class-~~;~~
  - 2. Date(s) and time(s) of day ~~intended for distribution~~of the proposed distribution or display;
  - 3. ~~Location where material will be distributed.~~ Proposed location;
  - 4. ~~If intended for students, the grade(s) of students to whom the distribution is intended.~~ Intended audience, if applicable; and
  - 5. Duration of the posting or display, if applicable.
- ~~B.~~ Administrative Review: Within ~~one school day a reasonable time, which will generally be within [INSERT] school days,~~ the principal or [INSERT POSITION] will review the request and render a decision. In the event that permission to distribute the material is denied or limited, the person submitting the request should be informed in writing of the reasons for the denial or limitation.
- ~~C.~~ ~~If the person submitting the request does not receive a response within one school day, the person shall contact the office to verify that the lack of response was not due to an inability to locate the person.~~
- ~~D~~ C. Appeal: If the person is dissatisfied with the decision of the principal or [INSERT POSITION], the person may submit a written request for appeal to the ~~s~~Superintendent. ~~If the person does not receive a response within three (3) school days (not counting Saturdays, Sundays and holidays) of submitting the appeal, the person shall contact the office of the Superintendent to verify that the lack of response is not due to an inability to locate the person.~~
- ~~E~~ D. Disclaimer: Permission or denial of permission to distribute material does not imply approval or disapproval of its contents by either the school, the administration of the school, the school board, or the individual reviewing the material submitted.

## **~~VII~~ IX. DISCIPLINARY ACTION**

- A. Student: Distribution by any student of non-school-sponsored material prohibited herein or in violation of the provisions of time, place and manner of distribution as described above will be halted and disciplinary action will be taken in accordance with the school district's Student Discipline Policy.
- B. Employees: Distribution by any employee of non-school-sponsored material prohibited herein or in violation of the provisions of time, place and manner of distribution as described above will be halted and appropriate disciplinary action will be taken, in accordance with any individual contract, collective bargaining agreement, school district policies and procedures, and/or governing statute.
- C. Other Persons: Any other party violating this policy will be requested to leave the school property immediately and, if necessary, the police will be called.

## **VIII. NOTICE OF POLICY TO STUDENTS AND EMPLOYEES**

~~A copy of this policy will be published in student handbooks and posted in school buildings. The Superintendent will be responsible for providing notice of this policy to students and employees. Notice will be provided through reasonable means to be determined by the Superintendent.~~

## **IX. IMPLEMENTATION**

The school district administration may develop any additional guidelines and procedures necessary to implement this policy for submission to the school board for approval. Upon approval by the school board, such guidelines and procedures shall be an addendum to this policy.

~~**[Note: School districts are encouraged to consider additional guidelines which reflect varied local practices relating to this subject matter, including addressing the subject of consistency and uniformity for approving or disapproving practices under this policy.]**~~

**Legal References:** U.S. Const., amend. I  
*Hazelwood School District v. Kuhlmeier*, 484 U.S. 260, 108 S.Ct. 562, 98 L.Ed.2d 592 (1988).  
*Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 106 S.Ct. 3159, 92 L.Ed.2d 549 (1986).  
*Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed.2d 731 (1969)  
*Bystrom v. Fridley High School*, 822 F.2d 747 (8th Cir. 1987).  
*Roark v. South Iron R-1 School Dist.*, 573 F.3d 556 (8<sup>th</sup> Cir. 2009)  
*Victory Through Jesus Sports Ministry Foundation v. Lee's Summit R-7 School Dist.*, 640 F.3d 329 (8<sup>th</sup> Cir. 2011), cert. denied 565 U.S. 1036, 132 S.Ct. 592 (2011)

**Cross References:** MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)  
MSBA/MASA Model Policy 506 (Student Discipline)  
MSBA/MASA Model Policy 512 (School Sponsored Student Publications)  
MSBA/MASA Model Policy 904 (Distribution of Materials on School District Property by Non-school Persons)