

NOVA CLASSICAL ACADEMY
MANUAL OF POLICIES APPROVED BY THE BOARD OF DIRECTORS

POLICY 505:
SPEECH AND DISTRIBUTION OF MATERIALS

I. PURPOSE AND BACKGROUND

Nova Classical Academy is a K-12 public charter school focusing on a classical education. Consistent with the classical education programming, students are divided into a trivium program as follows: grades K-5 are in the School of Grammar, grades 6-8 are in the School of Logic, and grades 9-12 are in the School of Rhetoric. The purpose of this policy is to address and balance the exercise of students' free speech rights regarding non-school sponsored matters with, and against, the educational objectives and responsibilities of the school and those other factors discussed in this policy. While the right to free speech is educationally important and a constitutionally protected right, Nova Classical is entitled to place reasonable, time, place, and manner restrictions on the right to speech and the distribution of materials within school-sponsored activities and facilities. As a general matter, this policy is not intended to apply to school-sponsored speech and distribution of materials which tend to be formulated under supervision and subject to other policies, but the principles established herein may be applicable to school-sponsored speech and distribution of materials.

II. 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. **Non-school sponsored material** or **unofficial material** includes all materials or objects intended for distribution, except school newspapers, employee newsletters, yearbooks, and other publications funded and/or sponsored or authorized by the school. Examples of non-school sponsored materials include, but are not limited to, invitations, leaflets, brochures, badges, flyers, petitions, and posters whether written by students or employees or others, and tangible objects.
- C. **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 or reasonably anticipated will receive such materials;
 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 or anticipated receipt, sexual conduct such as intimate sexual acts (normal or perverted), masturbation, excretory functions, or lewd exhibition of the genitals.

3. The material, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

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

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

1. Where the normal school activity is an educational program of the school for which student attendance is compulsory, material and substantial disruption is defined as disruption which interferes with or impedes the implementation of that program.
2. Where the normal school activity is voluntary in nature and outside of normal hours of operation (including, without limitation, school athletic events, and school plays and concerts), 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, there must exist specific facts upon which the likelihood of disruption can be forecasted 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. **Normal hours of operation** means during the school day and for a reasonable amount of time prior to, and after, school for arrivals and departures, which presently is typically from 8:15 a.m. until 4:00 p.m., Monday through Friday.

G. **School activities** means any activity sponsored by the school including, but not limited to, arrival to and departure from school, classroom work, lunch and recess, traveling on school grounds during normal school hours, library activities, field trips, physical education classes, official assemblies and other similar gatherings, school athletic contests, concerts, school plays and other theatrical productions, and in-school lunch periods.

H. **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.

III. GUIDELINES AND DISCRETIONARY DECISION-MAKING PROCESS

- A. Requests for distribution of non-school sponsored material shall be submitted in accordance with the procedures established below prior to distribution. Nova Classical reserves the right to deny distribution of any

materials that fail to comply with this policy or that are prohibited by this policy. In determining the appropriateness of distribution of non-school sponsored materials, Nova Classical encourages its decision makers (teachers, educational assistants, directors, Board of Directors, etc.) to consider the totality of circumstances when deciding whether speech and/or the distribution of materials should be permitted.

- B. Nova Classical will generally prohibit distribution of material that:
1. is obscene to minors;
 2. is libelous or slanderous;
 3. is lewd, 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, drug use, 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, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, gender identity or expression, or disability [Protected Class]); and/or
 7. presents a clear and present likelihood that it will cause a material and substantial disruption of the proper and orderly operation and discipline of the school or school activities, and/or will cause the commission of unlawful acts or the violation of lawful school regulations.

IV. DESIGNATED FORUM

- A. Non-school sponsored material must be approved prior to distribution in accordance with the other provisions of this policy.
- B. Between building opening and the first bell and after the last bell until the building closes, students may distribute approved material(s). In addition, students in the School of Logic and the School of Rhetoric may distribute approved material(s) during passing time on the Third Floor, during lunch on the mezzanine, and/or during lunch in any other areas where the students of the School of Logic and students of the School of Rhetoric are allowed to congregate.
- C. No one shall pressure, bully, intimidate and/or coerce a student or staff member to accept any materials distributed.

D. Circulation and dissemination of materials must also comply with Nova Classical policy 524 “Internet Acceptable Use”.

V. NON-SCHOOL SPONSORED STUDENT INTEREST CLUBS

- A. Subject to administration approval, students at Nova Classical in the School of Rhetoric will be allowed to create clubs that are non-school sponsored, but permitted to meet on school grounds.
- B. Non-sponsored clubs will be allowed to distribute club-related, non-school sponsored materials in a time, place, and manner consistent with this policy.
- C. School facilities may be made available for use by student-created, non-school sponsored clubs outside of the normal hours of operation on regularly scheduled school days at the discretion of the administration.

VI. UNIFORMS

Nova Classical has created a uniform policy pursuant to Minnesota Statute section 123B.36, subdivision 4. That policy is located in Nova Classical policy number NP 605. Distribution of non-school materials pursuant to this policy shall not materially or substantially disrupt that policy or otherwise violate this policy.

VII. TEXT BOOKS, BINDERS, AND/OR PLANNERS

Nova Classical encourages students to cover their text books, binders, and/or planners. However, the materials used to cover text books, binders, and/or planners shall not materially or substantially disrupt the school’s educational objectives, classical education model, discipline, or school activities, nor shall they otherwise violate this policy.

VIII. STUDENT JOURNALISM

A. Definitions.

a. **School-sponsored media** means material that is:

- i. prepared, wholly, or substantially written, published, broadcast, or otherwise disseminated by a student journalist enrolled at Nova Classical;
- ii. distributed or generally made available to students in the school; and
- iii. prepared by a student journalist under the supervision of a student media adviser.

School-sponsored media does not include material prepared solely for distribution or transmission in the classroom in which the material is produced nor does it include a yearbook.

- b. **School official** means a school principal under section 123B.147 or other person having administrative control or supervision of a school.
- c. **Student journalist** means a Nova Classical student in grades 6 through 12 who gathers, compiles, writes, edits, photographs, records, or otherwise prepares information for dissemination in school-sponsored media.
- d. **Student media adviser** means a qualified teacher, as defined in section 122A.16, that Nova Classical employs, appoints, or designates to supervise student journalists or provide instruction relating to school-sponsored media.

B. Student journalists; protected conduct.

- 1. Except as provided in subdivision C, a student journalist has the right to exercise freedom of speech and freedom of the press in school-sponsored media regardless of whether the school-sponsored media receives financial support from the school or district, uses school equipment or facilities in its production, or is produced as part of a class or course in which the student journalist is enrolled. Freedom of speech includes freedom to express political viewpoints. Consistent with subdivision C, a student journalist has the right to determine the news, opinion, feature, and advertising content of school-sponsored media. Nova Classical must not discipline a student journalist for exercising rights or freedoms under this paragraph or the First Amendment of the United States Constitution.
- 2. Nova Classical must not retaliate or take adverse employment action against a student media adviser for supporting a student journalist exercising rights or freedoms under paragraph B.1 or the First Amendment of the United States Constitution.
- 3. Notwithstanding the rights or freedoms of this subdivision of the First Amendment of the United States Constitution, nothing in this section inhibits a student media adviser from teaching professional standards of English and journalism to student journalists.

C. Unprotected expression.

- 1. This section does not authorize or protect student expression that:
 - a. is defamatory;
 - b. is profane, harassing, threatening, or intimidating;

- c. constitutes an unwarranted invasion of privacy;
 - d. violates federal or state law
 - e. causes a material and substantial disruption of school activities; or
 - f. is directed to inciting or producing imminent lawless action on school premises or the violation of lawful school policies or rules, including a policy adopted in accordance with Minnesota statute sections 121A.03 or 121A.031.
- 2. Nothing in this section authorizes the publication of an advertisement by school-sponsored media that promotes the purchase of a product or service that is unlawful for purchase or use by minors.
 - 3. Nova Classical must not authorize any prior restraint of school-sponsored media except under this section C.

D. Student journalist policy.

Nova Classical must post the student journalist section of this policy on the school website.

IX. PROCEDURES

- A. Except for Nova Parent Teacher Organization and Friends of Nova Classical Academy, any person wishing to distribute non-school sponsored material must first submit for approval a copy of the material to that student's supervising director (e.g. Upper School Principal or Lower School Principal) at least five (5) school days (not counting Saturdays, Sundays, and holidays) in advance of the desired distribution time.
- B. 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 is dissatisfied with the decision of the supervising principal, the person may submit a written request for appeal to the Executive Director. If the person does not receive a response within two (2) school days (not counting Saturdays, Sundays, and holidays) of submitting the appeal, the person shall consider the decision of the supervising principal final. 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.

X. DISCIPLINARY ACTION

- A. Distribution by any student of material prohibited herein or in violation of the provisions above may be halted and disciplinary action may be taken in accordance with the school's Student Discipline Policy.
- B. Any other party violating this policy may be requested to leave the school property immediately and, if necessary, the police may be called.

XI. NOTICE OF POLICY TO STUDENTS AND EMPLOYEES

A copy of this policy will be available at the school's website and this policy will be referenced in the Student-Parent Handbook.

XII. IMPLEMENTATION

The Executive Director may develop any additional guidelines and procedures necessary to implement this policy, provided such guidelines and procedures do not conflict with or violate the protections afforded students under this policy. Such guidelines and procedures shall be an addendum to this policy.

Legal References: Minnesota statutes section 121A.08

Cross References: Nova Classical Academy Policy 506 (Student Discipline)
Nova Classical Academy Policy 514 (Bullying Prohibition Policy – Mandatory)
Nova Classical Academy Policy 413 (Harassment and Violence)
Nova Classical Academy Policy 504 (Student Dress and Appearance)
Nova Classical Academy Policy NP 605 (Uniforms)
Nova Classical Academy Policy 102 (Equal Educational Opportunity – Mandatory)
Nova Classical Academy Policy 521 (Student Disability Nondiscrimination)
Nova Classical Academy Policy 522 (Student Sex Nondiscrimination)
Nova Classical Academy Policy 524 (Internet Acceptable Use)

*MSBA/MASA Model Policy 505 Orig. 1995
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