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MSBA/MASA Model Policy 512

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## 512 SCHOOL-SPONSORED STUDENT PUBLICATIONS AND ACTIVITIES

### I. PURPOSE

The purpose of this policy is to protect students' rights to free speech in production of ~~official school-sponsored publications~~ and activities while at the same time balancing the school district's role in supervising student publications and the operation of public schools.

### II. GENERAL STATEMENT OF POLICY

- A. The school district may exercise editorial control over the style and content of student expression in school-sponsored publications and activities.
- B. Expressions and representations made by students in school-sponsored publications and activities are not expressions of official school district policy. Faculty advisors shall supervise student writers to ensure compliance with the law and school district policies.
- C. Students who believe their right to free expression has been unreasonably restricted in an ~~official student school-sponsored media publication~~ or activity may seek review of the decision by the building principal. The principal shall issue a decision no later than three (3) school days, ~~unless additional time is needed for further investigation~~, after review is requested.
  1. Students producing ~~official school-sponsored media publications~~ and activities shall be under the supervision of a faculty advisor and the school principal. ~~School-sponsored media Official publications~~ and activities shall be subject to the guidelines set forth below.
  2. ~~Official school publications~~ ~~School-sponsored media~~ may be distributed at reasonable times and locations.

### III. DEFINITIONS

- A. "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 materials in internal staff or student mailboxes.
- ~~B. "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.~~
- B. "Material and substantial disruption" of a normal school activity means:
  1. Where the normal school activity is an educational program of the school 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, without limitation, 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, there must exist specific facts 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.

- C. "Minor" means any person under the age of eighteen (18).
- D. "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.
- ~~E. "Official school publications" means school newspapers, yearbooks, or material produced in communications, journalism, or other writing classes as a part of the curriculum.~~
- E. "School activities" means any activity of students 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 other theatrical productions, and in-school lunch periods.
- F. "School-sponsored media" means material that is:
  - 1. prepared, wholly or substantially written, published, broadcast, or otherwise disseminated by a student journalist enrolled in the school district;
  - 2. distributed or generally made available to students in the school; and
  - 3. 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, or a yearbook.
- G. "Student journalist" means a school district student in grades 6 through 12 who gathers, compiles, writes, edits, photographs, records, or otherwise prepares information for dissemination in school-sponsored media.
- H. "Student media adviser" means a qualified teacher, as defined in Minnesota Statutes, section 122A.16, that the school district employs, appoints, or designates to supervise student journalists or provide instruction relating to school-sponsored media.

#### **IV. GUIDELINES**

- A. Except as provided in paragraph B below, 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 paragraph B below, a student journalist has the right to determine the news, opinion, feature, and advertising content of school-sponsored media. The school district must not discipline a student journalist for exercising rights or freedoms under this paragraph or the First Amendment of the United States Constitution.

B. Student expression in ~~an official school publication~~ school-sponsored media, a yearbook, or school-sponsored activity is prohibited when the material:

1. is obscene to minors;
- ~~2. is libelous or slanderous;~~
2. is defamatory;
3. is profane, harassing, threatening, or intimidating;
4. constitutes an unwarranted invasion of privacy;
5. violates federal or state law;
6. causes a material and substantial disruption of school activities;
7. 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 Statutes, section 121A.03 or 121A.031;
8. advertises or promotes any product or service not permitted for minors by law;
- ~~4. encourages students to commit illegal acts or violate school regulations or substantially disrupts the orderly operation of school or school activities;~~
9. expresses or advocates sexual, racial, ethnic or religious harassment or violence or prejudice; or
10. is distributed or displayed in violation of time, place, and manner regulations.

C. The school district must not retaliate or take adverse employment action against a student media adviser for supporting a student journalist exercising rights or freedoms under paragraph A above or the First Amendment of the United States Constitution.

D. Notwithstanding the rights or freedoms of this Article or the First Amendment of the United States Constitution, nothing in this Article inhibits a student media adviser from teaching professional standards of English and journalism to student journalists.

~~Expression in an official school publication or school-sponsored activity is subject to editorial control by the school district over the style and content so long as the school district's actions are reasonably related to legitimate pedagogical concerns. These professional standards~~ may include, but are not limited to, the following:

1. assuring that participants learn whatever lessons the activity is designed to teach;
2. assuring that readers or listeners are not exposed to material that may be inappropriate for their level of maturity;
3. assuring that the views of the individual speaker are not erroneously attributed to the school;
4. assuring that the school is not associated with any position other than neutrality on matters of political controversy;

5. assuring that the sponsored student speech cannot reasonably be perceived to advocate conduct otherwise inconsistent with the shared values of a civilized social order;
6. assuring that the school is not associated with expression that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences.

**E. Time, Place, and Manner of Distribution**

Students shall be permitted to distribute written materials at school as follows:

1. Time

Distribution shall be limited to the hours before the school day begins, during lunch hour and after school is dismissed.

2. Place

Written materials may be distributed in locations so as not to interfere with the normal flow of traffic within the school hallways, walkways, entry ways, and parking lots. Distribution shall not impede entrance to or exit from school premises in any way.

3. Manner

No one shall induce or coerce a student or staff member to accept a student publication.

**V. POSTING**

The school district must adopt a student journalist policy consistent with Minnesota Statutes, section 121A.80 and post it on the district website.

**Legal References:**

U. S. Const., amend. I  
*Morse v. Frederick*, 551 U.S. 393 (2007)  
*Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988)  
*Bystrom v. Fridley High School, I.S.D. No. 14*, 822 F. 2d 747 (8<sup>th</sup> Cir. 1987)  
 Minn. Stat. § 121A.03 (Model Policy)  
 Minn. Stat. § 121A.031 (School Student Bullying Policy)  
 Minn. Stat. § 121A.80 (Student Journalism; Student Expression)

**Cross References:**

MSBA/MASA Model Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees)  
 MSBA/MASA Model Policy 506 (Student Discipline)  
 MSBA/MASA Model Policy 904 (Distribution of Materials on School District Property by Nonschool Persons)