

904 DISTRIBUTION OF MATERIALS ON SCHOOL DISTRICT PROPERTY BY NONSCHOOL PERSONS

I. PURPOSE

The purpose of this policy is to provide for distribution of materials appropriate to the school setting by nonstaff and nonstudents on school district property in a reasonable time, place, and manner which does not disrupt the educational program nor interfere with the educational objectives of the school district.

II. GENERAL STATEMENT OF POLICY

- A. The school district provides a method for nonschool persons and organizations to distribute materials appropriate to the school setting, within the limitations and provisions of this policy.
- B. To provide for orderly and nondisruptive distribution of materials, the school board adopts the following regulations and procedures.

III. DEFINITIONS

- A. “Distribution” means circulation or dissemination of materials by means of handing out free copies, selling or offering copies for sale, accepting donations for copies, posting or displaying materials, 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 him or her in the esteem of the community.
- C. “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 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.

- D. “Materials” includes all materials and objects intended by nonschool persons or nonschool organizations for distribution. Examples of nonschool-sponsored materials include but are not limited to leaflets, brochures, buttons, badges, flyers, petitions, posters, underground newspapers whether written by students, employees or others, and tangible objects.
- E. “Minor” means any person under the age of eighteen (18).
- F. “Nonschool person” means any person who is not currently enrolled as a student in or employed by the school district.
- G. “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, and lewd exhibition of the genitals; and
 3. The material, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.
- 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, other theatrical productions, and in-school lunch periods.

IV. GUIDELINES

- A. Outside (non-school district) persons or organizations are not allowed to distribute materials on school district property, except non-profit organizations, and in limited situations for-profit organizations, as set forth in this policy.
- B. Each year, the district will establish and post on the district website, the guidelines and procedures for distribution of materials.
- C. Organizations or persons seeking to distribute materials must comply with district established guidelines, including pre-approval prior to distribution.
 - 1. Approval of the posting or distribution of materials does not imply endorsement or support on behalf of school and district administration, staff or students.
 - 2. The school district reserves the right to deny permission for distribution or posting of materials including, but not limited to materials that directly compete with district programs or services and/or are not suitable for the school environment because the materials contain content that is vulgar, obscene, harassing, constitutes hate speech, endangers the health and safety of students, promotes illegal activity, or will create a material and substantial disruption. Any permissions to distribute will be subject to reasonable time, place, and manner restrictions.
- D. Distribution of Information through Electronic Media
 - 1. All distribution of materials shall be limited to posting by the school district via electronic media and/or e-mail transmission to parents by the school district.
 - 2. The board recognizes that many local non-profit community organizations provide the districts' students quality learning opportunities outside of the regular school day. The board will consider the posting and transmission of information about these opportunities through the district's electronic media. Groups posting information must:
 - a. Be local, non-profit organizations; and
 - b. Offer activities, events, classes, or resources within district boundaries, which contribute to the positive academic, social, or physical development of students.
 - 3. The district will consider posting or transmitting information by for-profit organizations only when the information meets the criteria in IV.D.2.b. of

this policy, and the event or activity is determined not to be a method to create a captive audience for proprietary interests, as determined by the school district.

V. VIOLATION OF POLICY

Any party violating this policy or distributing materials on school district property without permission will be directed to leave the property immediately and, if necessary, law enforcement will be contacted.

VI. IMPLEMENTATION

The school district administration may develop 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.

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)
Doe v. South Iron R-1 School District, 498 F.3d 878 (8th Cir. 2007)
Bystrom v. Fridley High School, 822 F.2d 747 (8th Cir. 1987)
Cornelius v. NAACP Legal Defense and Educational Fund, Inc., 473 U.S. 788, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985)
Perry Education Ass 'n v. Perry Local Educators' Ass 'n, 460 U.S. 37, 103 S.Ct. 948, 74 L.Ed.2d 794 (1983)
Roark v. South Iron R-1 School Dist., 573 F.3d 556 (8th Cir. 2009)
Victory Through Jesus Sports Ministry Foundation v. Lee's Summit R-7 School Dist., 640 F.3d 329 (8th Cir. 2011), cert. denied 565 U.S. 1036, 132 S.Ct. 592 (2011)

Cross References: Policy 505 (Distribution of Nonschool-Sponsored Materials on school Premises by Students and Employees)
Policy 512 (school Sponsored Student Publications)