



OPERATIONAL EXPECTATIONS

ISD 197 School Board

Students

Contact: Director of Communications

505 DISTRIBUTION OF NONSCHOOL-SPONSORED MATERIALS ON SCHOOL PREMISES BY STUDENTS

I. PURPOSE

The purpose of this policy is to protect the exercise of students' free speech rights, taking into consideration the educational objectives and responsibilities of the school district.

II. GENERAL STATEMENT OF POLICY

- A. The school district recognizes that students have the right to express themselves on school property. This protection includes the right to distribute, at a reasonable time and place and in a reasonable manner, nonschool-sponsored material.
- 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.

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, or accepting donations for copies; posting or displaying material; placing material in internal staff or student mailboxes; posting or sharing materials through electronic means using district devices, the district technology system and/or district Internet services; or broadcasting through a school's public address system or display monitors.
- B. "Nonschool-sponsored material" or "unofficial material" includes all materials or objects intended for distribution, except newspapers, newsletters, magazines and other items that are produced or published by the district; and yearbooks and other publications that are funded and/or sponsored or authorized by the school. Examples of nonschool-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, tangible objects, websites, blogs, podcasts, audio recordings and videos.

- C. “Obscene” means:
1. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest of individuals 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. “Minor” means any person under the age of eighteen (18).
- E. “Material and substantial disruption” means:
1. Any disruption that interferes with or impedes the implementation of a school activity or program, participation in a school activity or sponsored event, or creates an environment that is not conducive to learning or participating in a school activity or sponsored event.
- In order to predict that conduct will cause a disruption, 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.
- F. “School activities” means any activity sponsored by the school including, but not limited to, classes, assemblies and other similar gatherings, athletic contests, concerts, school plays and other theatrical productions, and in-school lunch periods.
- G. “Defamation” means a false and unprivileged statement made or published to a third person about a specific individual that tends to harm the individual’s reputation or to lower that individual in the esteem of the community.

IV. GUIDELINES

- A. Students of the school district have the right to distribute, at reasonable times and places as set forth in this policy, and in a reasonable manner, nonschool-sponsored material.

- B. Requests for distribution of nonschool-sponsored material will be reviewed by the administration on a case-by-case basis. However, distribution of the materials listed below is always prohibited. Material is prohibited that:
1. is obscene;
 2. is defamatory;
 3. is 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 that is illegal for minors to possess or use;
 5. incites violence or other illegal conduct - the very expression of which injures, harasses, or discriminates against other people;
 6. demeans a person or group based on a protected classification under federal or state law (e.g. color, creed, religion, national origin, sex, marital status, familial status, disability, public assistance status, age or sexual orientation);
 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 to a school activity, school program or school sponsored event, or will cause the commission of unlawful acts or the violation of lawful school regulations.
- C. Distribution by students of nonschool-sponsored materials on school district property are subject to reasonable time, place, and manner restrictions set forth below. In making decisions regarding the time, place, and manner of distribution, the administration will consider factors including, but not limited to, the following:
1. whether the material is educationally related;
 2. the extent to which 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 hallways;
 4. the quantity or size of materials to be distributed;

5. whether distribution would require assignment of school district staff, use of school district equipment, or other resources;
6. whether the materials are a solicitation for goods or services not requested by the recipients.
7. whether the material could be erroneously attributed to the school or district.

V. TIME, PLACE, AND MANNER OF DISTRIBUTION

- A. No nonschool-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 nonschool-sponsored material is prohibited when it blocks the safe flow of traffic within corridors or entrance ways of the school, or 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.
- E. Distribution that results in a “spamming” or disruption to any of the district’s electronic communication systems, including, but not limited to email, is prohibited.

VI. PROCEDURES

- A. Any student wishing to distribute (as defined in this policy) nonschool-sponsored material must first submit for approval a copy of the material to the principal or designee 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 the room number of their first-period class.
 2. Date(s) and time(s) of distribution.
 3. The grade(s) of students to whom the distribution is intended.
- B. Within one school day, the principal or designee will review the request and render a decision. In the event that permission to distribute the material is denied or limited, the student submitting the request should be informed in writing of the

reasons for the denial or limitation.

- C. If the student submitting the request does not receive a response within one school day, the student must contact the office to verify that the lack of response was not due to an inability to locate the person.
- D. If the student is dissatisfied with the decision of the principal/designee, the student may submit a written appeal to the superintendent. If the student does not receive a response within three (3) school days (not counting Saturdays, Sundays and holidays) of submitting the appeal, the student must contact the office of the Superintendent to verify that the lack of response is not due to an inability to locate the person.
- E. 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. DISCIPLINARY ACTION

- A. Distribution by any student of nonschool-sponsored material in violation of this policy will be halted and disciplinary action may be taken in accordance with the school district's Student Discipline Policy.

VIII. NOTICE OF POLICY TO STUDENTS

A copy of this policy will be published in student handbooks and posted in school buildings.

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.

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 (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: School District Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
School District Policy 506 (Student Discipline)
School District Policy 512 (School-Sponsored Student Publications)
School District Policy 904 (Distribution of Materials on School District Property by Nonschool Persons)

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| POLICY ADOPTED: | December 14, 2009 |
| POLICY REVIEWED/REVISED: | September 5, 2018; May 17, 2021 |
| Monitoring Method: | Administrative Review |
| Monitoring Frequency: | Every three years |