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MSBA/MASA Model Policy 904

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904 DISTRIBUTION OF MATERIALS ON SCHOOL DISTRICT PROPERTY BY NONSCHOOL PERSONS

I. PURPOSE

- A. The purpose of this policy is to provide guidelines for the distribution of materials appropriate to the school setting by nondistrict persons and organizations on school district property in a reasonable time, place, and manner that 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 intends to provide a method for non-school 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, administration will establish guidelines to ensure that such materials are appropriate to the school setting; complies with established procedures; and has consequences for non-compliance.

III. DEFINITIONS

- A. “Distribution” means circulation or dissemination of materials by means of handing out or offering materials or copies of materials (materials), selling or offering materials for sale, accepting donations for materials, posting or displaying materials, placing materials in internal staff or student mailboxes or staff, student or parent emails.
- B. “Materials” includes all materials and objects intended by nondistrict persons or nondistrict organizations for distribution. Examples of nondistrict -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 other tangible objects.
- C. “Nondistrict person” means any person who is not currently enrolled as a student in or employed by the school district.
- D. “Nondistrict organization” means an organization that is not sponsored by the school district.

- E. “Parent” means a biological parent, adoptive parent, legal guardian, or conservator.
- F. “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 of 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 exhibitions of the genitals; and
 3. the material, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.
- G. “Minor” means any person under the age of eighteen (18).
- H. “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.
- I. “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, fine arts concerts, presentations and productions, and in-school lunch periods.
- J. “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.

IV. GUIDELINES

- A. The school district may permit within the provisions of this policy, nondistrict persons or organizations to distribute, at reasonable times and places as set forth in this policy, and in a reasonable manner, materials and objects which are appropriate to the school setting.
- B. Requests for distribution of materials will be reviewed by the administration on a case-by-case basis. However, distribution of the following materials is always prohibited.
1. Materials obscene to minors;
 2. Libelous materials;
 3. Materials 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. Materials advertising any product or service not permitted to minors by law;
 5. Materials advocating violence or other illegal conduct;
 6. Materials constituting 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, religious or ethnic origin);
 7. Materials that 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, or will cause the commission of unlawful acts or the violation of lawful school regulations.
- C. Permission for nondistrict persons or organizations to distribute materials on school district property is a privilege and not a right. In making decisions regarding permission for such 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, or via a digital or electronic manner, 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 distribution would require that non-school persons be present on the school grounds;
7. whether the materials are a solicitation for goods or services not requested by the potential recipients.
8. announcements and informational materials relating to programs and activities of the City of South St. Paul and community partners served by the district, and when appropriate, other governmental bodies and agencies.
9. Unless otherwise provided by law, announcements and informational materials regarding school or youth-related activities, organizations and agencies are clearly known to be non-sectarian, devoted to community interests or child welfare, non-discriminatory and totally committed to equal opportunity, and generally recognized as owning their existence to serving the broad public and general interests.

V. TIME, PLACE AND MANNER OF DISTRIBUTION

If permission is granted pursuant to this policy for the distribution of any materials, the time, place and manner of distribution will be solely within the discretion of the administration, consistent with the provisions of this policy.

VI. PROCEDURES

- A. Any nondistrict person or organization wishing to distribute materials must first submit for approval a copy of the materials to the administration at least five days in advance of desired distribution date, together with the following information:
 1. Name and phone number of the person submitting the request.
 2. Date(s) and time(s) of day of requested distribution.
 3. If material is intended for students, the grade(s) of students to whom the distribution is intended.
 4. The proposed method of distribution.
- B. The superintendent or designee will review the request and render a decision. The administration will assign a location and method of distribution and will inform the persons submitting the request whether nondistrict persons or organizations may be present to distribute the materials. In the event that permission to distribute the materials is denied or limited, the person submitting the request should be informed in writing of the reasons for the denial or limitation.

- C. 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. VIOLATION OF POLICY

Any party violating this policy or distributing materials without permission will result in the halting of behavior, and may include issuing of directives to cease and desist, leave the school property immediately and, if necessary, the referral to law enforcement.

VIII. IMPLEMENTATION

The school district administration may develop additional guidelines and procedures necessary to implement this policy for submission to the school board for review. 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)

Cross References:

MSBA/MASA Model Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees)
MSBA/MASA Model Policy 512 (School-Sponsored Student Publications)



Appendix I to Policy 904

DISTRIBUTION PROCESS OF MATERIALS BY NONDISTRICT SPONSORED PERSONS AND ORGANIZATIONS

I. PURPOSE

The purpose of this addendum is to establish the process, procedures and requirement for the distribution of materials from nondistrict persons and organizations to school district students and families through electronic and/or carry-home flyer distribution.

II. MATERIALS REQUIREMENTS

A. Materials must announce events, services, or notices of meetings that are:

1. Related to healthy youth development;
2. Related to youth engagement or education;
3. Community services available to parents and families;
4. Special events related to family engagement in school or civic matters;
5. Public meetings related to family engagement in school or civic matters

B. All announcement and materials for activities, events, services, or notices that are not co-sponsored by the school district, must contain a disclaimer on the front side of the page in at least 10-point font that contains the following language:

“South St. Paul Public Schools, Special School District 6 is legally unable to and does not sponsor, endorse, or recommend the activities announced in this flyer”

C. Materials must contain information identifying the sponsoring person(s) or organization(s) and include enough background information, including contact name and phone number, to enable a parent to make a meaningful selection, including age-appropriateness, of the activity promoted.

D. Materials may not announce an activity or a service for which there is a proprietary interest or financial gain to the sponsor.

E. If the material advertises an event or activity for which there is a charge, it must state that no person will be denied access because of inability to pay.

F. All information items contained in the material must be appropriate for the education setting via the electronic and/or carry-home flyer distribution process.

III. APPROVAL PROCESS

A. The superintendent or designee will review the submission and determine whether the material complies with the requirements of this policy and/or District Policy 505

- B. The district will deny approval materials that:
1. Are likely to cause disruption to the school;
 2. Interfere with the school district's educational objectives or are obscene or libelous;
 3. Are contrary to the curriculum adopted by the district;
 4. Advertise a product or service not permitted to minors by law;
 5. Campaign for or against an election candidate, or promote or oppose a ballot measure;
 6. Promote or are hostile to any religion. However, activities sponsored by a religious organization will permitted so long as the material complies with other provisions of this policy;
 7. Advertise fundraising or contests for non-school organizations;
 8. Advertise, solicit volunteers, study subjects, internships, or employment opportunities;
 9. Discriminate against any person based on race, religion, national origin, gender, affectional preference, sexual orientation, gender identification, age, home language, ethnicity, marital or familial status, disability or public assistance status;
 10. Advertise activities or services to students that occur during the regularly scheduled school day
 11. Advocate violence or other illegal activities; or
 12. Advocate the commission of unlawful acts or violation of school regulations.